

CUSTOMS BULLETIN AND DECISIONS

***Weekly Compilation of
Decisions, Rulings, Regulations, Notices, and Abstracts
Concerning Customs and Related Matters of the
Bureau of Customs and Border Protection
U.S. Court of Appeals for the Federal Circuit
and
U.S. Court of International Trade***

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**DEPARTMENT OF HOMELAND SECURITY
BUREAU OF CUSTOMS AND BORDER PROTECTION**

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Bureau of Customs and Border Protection

General Notices

19 CFR PART 12

[CBP Dec. 06-09]

RIN 1505 - AB59

Import Restrictions Imposed on Certain Archaeological and Ethnological Materials from Colombia

AGENCY: Customs and Border Protection; Homeland Security; Treasury.

ACTION: Final rule.

SUMMARY: This final rule amends the Customs and Border Protection (CBP) regulations to reflect the imposition of import restrictions on certain archaeological material and certain ethnological material from Colombia. These restrictions are being imposed pursuant to an agreement between the United States and the Government of Colombia that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The final rule amends CBP regulations by adding Colombia to the list of countries for which a bilateral agreement has been entered into for imposing cultural property import restrictions. The final rule also contains the designated list that describes the types of archaeological and ethnological articles to which the restrictions apply.

EFFECTIVE DATE: March 17, 2006.

FOR FURTHER INFORMATION CONTACT: For legal aspects, George Frederick McCray, Esq., Office of Regulations and Rulings, (202) 572-8709; for operational aspects, Michael Craig, Chief, Other Government Agencies Branch (202) 344-1684.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The United States shares in the international concern for the need to protect endangered cultural property. The appearance in the United States of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the United States to join with other countries to control illegal trafficking of such articles in international commerce.

The United States joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub. L. 97-446, 19 U.S.C. 2601 *et seq.*) (the Act). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and contribute to greater international understanding of our common heritage.

During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts/materials of a number of signatory nations. These restrictions have been imposed as a result of requests for protection received from those nations, as well as pursuant to bilateral agreements between the United States and other countries. More information on import restrictions can be found on the International Cultural Property Protection Web site (<http://exchanges.state.gov/culprop/index.html>).

This document announces that import restrictions are now being imposed on certain archaeological and ethnological materials from Colombia.

Determinations

Under 19 U.S.C. 2602(a)(1), the United States must make certain determinations before entering into an agreement to impose import restrictions under 19 U.S.C. 2602(a)(2). On May 10, 2005, the Assis-

tant Secretary of State for Educational and Cultural Affairs made the determinations required under the statute with respect to certain archaeological materials originating in Colombia that represent pre-Colombian cultures and certain Colonial ecclesiastical ethnological materials that are described in the designated list set forth further below in this document ("Determinations to Impose Import Restrictions on Archaeological Material from the Pre-Colombian Cultures of Colombia and Colonial Ecclesiastical Ethnological Material"). These determinations include the following: (1) That the cultural patrimony of Colombia is in jeopardy from the pillage of irreplaceable archaeological materials representing its pre-Colombian heritage (ranging in date from approximately 1500 B.C. to A.D. 1530) and irreplaceable ecclesiastical ethnological materials of the Colonial period (ranging in date from approximately A.D. 1530 to 1830) (19 U.S.C. 2602(a)(1)(A)); (2) that the Government of Colombia has taken measures consistent with the Convention to protect its cultural patrimony (19 U.S.C. 2602(a)(1)(B)); (3) that import restrictions imposed by the United States would be of substantial benefit in deterring a serious situation of pillage and remedies less drastic are not available (19 U.S.C. 2602(a)(1)(C)); and (4) that the application of import restrictions as set forth in this final rule is consistent with the general interests of the international community in the interchange of cultural property among nations for scientific, cultural, and educational purposes (19 U.S.C. 2602(a)(1)(D)). The Assistant Secretary also found that the materials described in the determinations meet the statutory definition of "archaeological or ethnological material of the state party" (19 U.S.C. 2601(2)).

The Agreement

On March 15, 2006, the United States and the Government of Colombia entered into a bilateral agreement (the Agreement) pursuant to the provisions of 19 U.S.C. 2602(a)(2) covering certain archaeological materials representing its pre-Colombian cultural heritage and certain ecclesiastical ethnological materials of the Colonial period. Dating from approximately 1500 B.C. to approximately A.D. 1530, the pre-Colombian archaeological materials include, but are not limited to, objects generally associated with the Tairona, Sinu, Uraba, Quimbaya, Muisca, Calima, Malagana, Tolima, Tierradentro, Cauca, San Agustín, Tumaco, and Narinao cultures, such as ceramic figurines, vessels, and funerary urns; gold and alloy (gold with copper, platinum, or other metals) jewelry; wood, such as tools; bone, such as small implements and jewelry; rock art; and lithics, such as large sculpted stone from the San Agustín Culture. Dating from A.D. 1530 to 1830, the ecclesiastical ethnological materials include, but are not limited to, religious oil paintings; altars and altar pieces, including retablos of wood, gold, and silver; statues of saints (*santos*); textiles such as liturgical vestments and wall hangings; and objects of paper, parchment, or leather, such as documents and incunabula.

Restrictions and Amendment to the Regulations

In accordance with the Agreement, import restrictions are now being imposed on these archaeological and ethnological materials from Colombia. Importation of these materials, described specifically in the designated list below, are subject to the restrictions of 19 U.S.C. 2606 and §12.104g(a) of the Customs and Border Protection (CBP) Regulations (19 CFR 12.104g(a)) and will be restricted from entry into the United States unless the conditions set forth in 19 U.S.C. 2606 and § 12.104c of the regulations (19 CFR 12.104c) are met. CBP is amending § 12.104g(a) of the CBP Regulations (19 CFR 12.104g(a)) to indicate that these import restrictions have been imposed.

Material Encompassed in Import Restrictions

The bilateral agreement between the Government of Colombia and the United States covers the categories of objects described in the designated list set forth below. These articles are subject to the import restrictions set forth above, in accordance with the above explained applicable law and the regulation amended in this document (19 CFR 12.104(g)(a)).

Categories of Objects from Colombia Designated for Protection from Importation into the United States

I. ARCHAEOLOGICAL MATERIALS (1500 B.C.–A.D. 1530)

- I.A. Large Stone Sculptures
- I.B. Rock Art
- I.C. Ceramic Figurines
- I.D. Ceramic Vessels
- I.E. Ceramic funerary Urns
- I.F. Miscellaneous Ceramic Object Types
- I.G. Gold
- I.H. Wood
- I.I. Portable Stone
- I.J. Bone
- I.K. Textiles

II. ECCLESIASTICAL ETHNOLOGICAL MATERIALS (A.D. 1530–1830)

- II.A. Wooden Items
- II.B. Metal Objects, Accoutrements, and Fittings
- II.C. Textiles
- II.D. Paper, Parchment, Leather

I. ARCHAEOLOGICAL MATERIALS

The archaeological objects that are covered under this agreement are associated with culture groups that resided in this region from

about 1500 BC (late in the Archaic Period), throughout the Formative and Classic Periods, to 1530 AD (late in the Recent Period).

I.A. Large Stone Sculptures

The monolithic sculptures of the San Agustín Culture (1-900 AD) from tombs in Upper Magdalena and the neighboring region in southern and northern Huila, Tierradentro, northern Nariño, the Popayán region, Cundinamarca, Boyacá, and northern Caquetá. Worked primarily in volcanic stone (basalt, tektite, manzonite, and andesite), the tallest statues are up to 3 m. high, with human, avian, and other animal characteristics, carved in low relief and occasionally retaining evidence of pigments.

I.B. Rock Art

Ancient rock art is found throughout Colombia, at sites including Gorgona in Cauca, Mesitas del Colegio in Cundinamarca, San Agustín in Huila, and Sáchica, Sogamoso, Muzo, and Buenavista in Boyacá. Archaeological research has not established a full typology or chronology as yet. The great majority are engravings in low relief (petroglyphs) on the flat surfaces of huge stones or on surfaces of exposed bedrock, some retaining colored pigments.

I.C Ceramic Figurines

Small sculptures and miniature human and animal figures associated with the Tairona, Muisca, Guane, Tolima, Magdalena Medio, San Agustín, Tierradentro, Nariño, Tumaco, Calima, Malagana, Quimbaya, Cauca, Urabá, and Sinú cultures.

I. C. 1. *Cauca and southern Valle*

The Popayán style in this region displays highly decorated anthropomorphous figures with zoomorphous appliqué (Height: 20 cm., Width: 13 cm.). Other common forms are the benches on which anthropomorphous figures rest (Height: 7 cm., Width: 10 cm.).

I. C. 2. *Guajira*

Stylized globular anthropomorphous figures with appliqué features.

I. C. 3. *Nariño*

This is divided into three types of pottery: Capulí, Piartal, and Tuza. The Capulí pottery presents modeled decoration and black negative resist paint on red. The anthropomorphous figures of coca chewers (coqueros) are characteristic of this style.

I. C. 4. *Quimbaya*

The Quimbaya anthropomorphous figures are generally seated with their arms extended or holding objects, on occasion wearing a

gold or tumbaga nose ring. These objects are usually painted in two or more colors. The dimensions average from 12 to 40 cm. tall and 8 to 30 cm. wide; miniatures of this type are also common.

I. C. 5. *San Jorge*

The average dimensions of the realistic anthropomorphous and zoomorphous figures characteristic of the Momil Culture are 5 by 4 by 2 cm. The larger figures come in 15 by 10 by 8 cm. sizes, and the smaller ones measure approximately 2 by 2 by 2 cm.

I. C. 6. *Tolima*

Anthropomorphous figures, some sitting on benches. Their dimensions vary and are usually painted in black negative resist paint on light brown.

I. C. 7. *Tumaco*

The most characteristic forms of the Tumaco pottery are the anthropomorphous, zoomorphous and anthro-zoomorphous heads or figures, and masks. Some are modeled, others molded, and others combine the two techniques and reflect attitudes and expressions of daily and supernatural life. The anthropomorphous heads generally display cranial deformation. The sizes vary from 2 to 30 cm. tall.

I. D. Ceramic Vessels

This category is the most common, varied, and widespread. Vessels appear initially in deposits from the Archaic Period (4000 BC-1000 AD) on the Atlantic Coast and from the Formative period (1000 BC-1 AD) countrywide. The decorative styles, the forms, and the typical functions of the ceramic vessels vary between regions and periods. Types of pre-Columbian pottery that are intensely sought and traded illicitly include very elaborate vessels, profusely decorated (incised, modeled, appliqué, and/or painted). They originated particularly in the Formative and Classic (1 AD-900 AD) periods, come from all regions, and were buried with the dead.

I. D. 1. *Vessels of the Early Formative Period*

The main sites on the Caribbean coast where evidence is found of the Early Formative Period are: Monsú, Puerto Hormiga, San Jacinto, Canapote, Barlovento, Zambrano, Malambo, Momil, and Crespo. The manufacturing technique includes spirals and modeling, with thick-walled vessels and rough surfaces. The most ancient forms show vegetable fiber and sand temper. The most recent forms display ground shell and sand temper, or sand temper. The decoration includes incision and clay slip. The slip ranges from very light brown (or beige) to a darker light brown or reddish. The ceramic figures and forms are profusely decorated with abundant dots and deep incisions. Some vessels come with stamped decorations using sea-

shells. The bowls and the pots generally have anthropomorphous and zoomorphous appliqué on the upper part. The Momil pottery also displays black, white, and red paint.

I. D. 1. a. Early phase bowls and pots from the tradition known as *tecomate* are globular and semi-globular with inverted edges and wide mouths, and decorated with incised and excised decoration on the upper part; they measure ~ 30 cm. in diameter and ~ 20 cm. in height.

I. D. 1. b. In more recent phases, such as Malambo, they come in assorted forms, including cups with ring-shaped or foot-type supports (Height: ~ 20 cm., Diameter: ~15 cm.). There also are plates, clay griddles (*budares*), and vessels with prominent shoulders.

I. D. 1. c. In Momil, the forms are more varied: narrow-necked and wide everted-edged vessels, compound silhouette cups, globular vessels with downward everted edge, sub-globular downward edge vessels, vessels with mammiform supports, and earthen bowls with base borders.

I. D. 2. *Vessels of the Late Formative Period: Coast*

On the Pacific Coast, the most representative sites are Tumaco, Monte Alto, Inguapí, El Balsal, Pampa de Nerete, and Cupica (Chocó). On the Atlantic Coast, the sites are Guajira, the Rancheria river valley and part of the Cesar river valley, the Upper Sinú river, the flanks of the Abibe and San Jeronimo Serrania, and the Gulf of Urabá. The chronology of the period is from 1000 BC to the first century AD.

I. D. 2. a. *Cupica*. The following forms are very common:

I. D. 2. a. i. Semi-globular, sub globular vessels, with everted edge, straight or in a poporo form.

I. D. 2. a. ii. Double-spouted globular or phytomorphous vessels, short-necked sub globular and everted edge vessels.

I. D. 2. a. iii. Globular and phytomorphous cups with ring-shaped support, conical-stemmed cups with punctured supports.

I. D. 2. a. iv. Decoration in Cupica is incised, excised, with appliqué bands forming anthropomorphous and zoomorphous figures, dotted and lentil-shaped appliqué. The slips are generally dark brown with black and red paint.

I. D. 2. a. v. All these vessels vary between a maximum height of 25 cm. and a minimum of 10 cm., a diameter between 25 and 10 cm., and generally the height and diameter are the same size.

I. D. 2. b. *Guajira*. The ceramic decoration in this region is characterized by spiral or linear motifs, appliqué bands, manufactured by modeling or by rolls. They come in light brown and reddish slips and positive red, black, and white paint. The most common forms are:

I. D. 2. b. i. Globular and sub globular vessels, short or high-necked, wide or narrow mouthed, zoomorphous (Height: 15 cm., Diameter: 20 cm.).

I. D. 2. b. ii. Semi globular cups with globular support (Height: 15 cm., Diameter: 15 cm.).

I. D. 2. c. *Sinú (or Urabá)*. Pottery manufactured by rolls and modeled, with appliqué bands, incisions, dotted, imprints and applying internal pressure. The slip comes in beige, light brown to reddish, and black. The main forms are:

I. D. 2. c. i. Plates, semi globular earthen bowls, globular wide-mouthed and printed edged vessels (Height: 15 cm., Diameter: some 20 cm.).

I. D. 2. c. ii. Printed, horizontal everted-edge cups, evenly punctured crowning support, some with zoomorphous appliqués and with rattles (Height: 15 cm., Diameter: around 15 cm.).

I. D. 2. d. *Tumaco - La Tolita*. This pottery is characterized by coming in red, brown, or gray slip. Some vessels display zoned white paint. The common forms are:

I. D. 2. d.i. Globular, semi globular, or keel-shaped earthen bowls with slightly inverted or everted edge (Height: 15 cm., Diameter: 20 cm.).

I. D. 2. d.ii. Globular or sub globular vessels, short or high-necked with everted edge, with or without anthropomorphous or zoomorphous appliqués on the body or appliqué bands, with or without double handles on the body (Height: 10 cm., Diameter: 12 cm.).

I. D. 2. d.iii. Semi globular or cylindrical, or keel-shaped cups, with mammiform tripod-shaped supports (Height: 12 cm., Diameter: 18 cm.).

I. D. 2. d.iv. Alcarrazas (double-spouted jug with a bridge handle), in various animal, avian, and human forms.

I. D. 2. d.v. "Canasteros" or anthropomorphous or zoomorphous figures with a cylindrical container in the back part (Height: 15 cm., Diameter: 15 cm.).

I. D. 3. *Vessels of the Late Formative Period: Interior*

The Interior comprises the lower and mid-Magdalena valley region, the provinces of Cesar, Magdalena, Bolívar, Santander, Antioquia, Boyacá, Cundinamarca, Caldas, Tolima, Huila, Putumayo, the Llanos Orientales (Eastern Plains), and the Amazon. The archaeological cultures represented are Tamalameque and Magdalena Medio, Pijao (in Espinal), Panche (in Ricaurte and Honda), Pantagora (in Guarinó, La Miel, and Puerto Serviez), Mosquito (in Ocaña), and Guayupes (Llanos Orientales).

I. D. 3. a. *Amazon*. This ceramic slip varies from beige to dark brown and reddish, and different tones of gray; the decoration consists of incisions, dots, brushing, impression, grooves, modeled ap-

pliqués, geometric designs in red positive paint and occasionally white, brown. Common forms are:

I. D. 3. a. i. *Budares* (flat clay griddles) with slightly everted edge, usually holding leaf imprints on the base (Height: approximately 5 cm., Diameter: varies between 34 and 56 cm.).

I. D. 3. a. ii. Cylindrical, "hourglass" supports or in the form of a truncated cone (probably for the griddles); they can be hollow or compact with a flat base (Height: variable, Diameter of the base: varies between 10 and 18 cm.).

I. D. 3. a. iii. Semi globular and keel-shaped everted-edge earthen bowls (Height: 7 cm., Diameter: 20 cm.), globular body, or compound silhouette vessels, flat base, short-necked, everted edge (Height: varies between 7 and 18 cm., Diameter: varies between 15 and 36 cm.).

I. D. 3. a. iv. Anthropomorphous and zoomorphous containers of assorted dimensions, modeled, realistic, and stylized.

I. D. 3. b. Calima. The Formative is represented in Calima by the llama pottery, characterized by brushed and/or incised fine decoration, with slip ranging from light to dark brown. Some incisions are filled in with white paste. The common forms are:

I. D. 3. b. i. Simple, anthropomorphous, zoomorphous alcarazas (double-spouted jug). Average dimensions: Height: 15 cm., Diameter: 15 cm.

I. D. 3. b. ii. Canasteros (anthropomorphous vessels with hollow cylinder in the back part)(Height: 16 cm., Diameter: 10 cm.).

I. D. 3. b. iii. Cylindrical, anthropomorphous, or zoomorphous vessels (Height: 10 cm., Diameter: 7 cm.) and the globular narrow-mouthed and everted edge vessels (Height: 12 cm., Diameter: 16 cm.).

I. D. 3. c. Llanos Orientales (Eastern Plains). Vessels from this are semi globular or compound silhouette earthen bowls, with rounded or flat bases, everted or slightly inverted edges and rounded. Some show triangular or rhomboid mouths and modeled appliqués on the border (Height: 10 cm., Diameter: 20 cm.). The slip is generally reddish and with white positive paint, forming geometrical designs. Common also are globular, semi-globular, sub globular vessels, compound silhouette, keel-shaped, short-necked, everted or straight-edged, rounded or flat based, with or without appliqués, with or without white positive paint (Height: 15 cm., Diameter: 18 cm.).

I. D. 3. d. Putumayo (Guamués). The diagnostic feature of this type is a decoration with visible coils, and corrugated decoration with fingerprints, or corrugated with different imprints. The colors of the slip range from gray to reddish brown. The common forms are globular and sub globular with straight neck and everted edge (Height: 20 cm., Diameter: 30 cm.).

I. D. 3. e. *Tamalameque, Mosquito and Chimila.* In this zone, we find vessels of various forms associated with burials. The most common forms are the globular narrow-necked vessels, everted-edged, and with incised decoration forming a rhombus. There are also anthropomorphous vessels with ring-shaped supports and very realistic anthropomorphous modeled figures. Multicolored zoomorphous vessels with geometrical designs, narrow necks, and everted edges have also been found in Ricaurte.

I. D. 4. *Vessels from the Classic and Recent Periods*

The formation and consolidation of chiefdoms started in these periods, with regional political units and populated towns. The principal chiefdoms in the Classic period are in Magdalena (Sierra Nevada de Santa Marta), Cordoba, Santander, Cundinamarca, Boyacá, Caldas, Risaralda, Quindío, Huila, Valle, Cauca, and Nariño. The archaeological cultures represented are Tairona, Sinú, San Jorge, Guane, Muisca, Quimbaya, Calima, San Agustín, Tierradentro, and Nariño.

I. D. 4. a. *Calima.* The Classic Period in Calima corresponds to Yotoco pottery, with its characteristic decoration in black negative resist paint on red, orange or white wash, and curvilinear designs. They occasionally carry appliqué. The most common forms are:

I. D. 4. a. i. Simple alcarrazas, anthropomorphous, phytomorphous with ring-shaped, tetrapod or tripod-shaped support (Height: 15 cm., Diameter: 15 cm.).

I. D. 4. a. ii. Whistling Alcarrazas, which could be either simple or double. The dimensions of the simple ones are the same as the double-spouted alcarrazas. The double ones have the same average height and an average length of 20 cm.

I. D. 4. a. iii. Earthen bowls with flat or rounded base. The negative resist paint is apparent inside and outside (Height: 8 cm., Diameter: 15 cm.).

The Recent Period in Calima encompasses Sonso pottery, characterized by decoration in the form of negative black paint on red or orange wash, with a linear design or light brown to reddish light brown slip. They display appliquéd incised bands. The most common forms of the Sonso style are:

I. D. 4. a. iv. Semi globular earthen bowls (Height: 10 cm., Diameter: 15 cm.).

I. D. 4. a. v. Pitchers with three horizontal handles set irregularly on the vessel's body. The neck is phytomorphous or anthropomorphous (Height: 24 cm., Diameter: 22 cm.).

I. D. 4. a. vi. Other common forms are cups with incised brushing and appliqué decoration (Height: 12 cm., Diameter: 16 cm.).

I. D. 4. b. *Cauca and southern Valle.* We find three pottery styles: Quebrada Seca or Corinto, Río Bolo, and Popayán. In the

Quebrada Seca and Río Bolo vessels, the pottery surface is fine and polished with red slip, exception made to the top part of the vessel that conserves the paste's natural color. It generally holds stylized anthropomorphous modeled appliqué and incisions on the top part, on the border between the slip and the paste. Sometimes, the body displays incisions around and on the border. Some vessels come in unpolished surfaces, and totally brushed with wide, deep, and intersecting lines. The Popayán style is characterized by the use of modeling. The most common forms are:

I. D. 4. b. i. Semi globular or globular earthen bowls, with straight border, inverted border, or externally reinforced border, sometimes with two handles. (Height: 7 cm., Diameter: 16 cm.).

I. D. 4. b. ii. Semi-globular, sub-globular, globular cups in bell-form, short, medium-sized and tall supports, and straight, inverted, reinforced, everted borders, with or without small handles.

I. D. 4. b. iii. Triple cups on only one support (Height: 15 cm., Diameter: 16 cm.), globular, sub-globular, *aribaloide* (high-necked, oval-shaped urn type) vessels, narrow-necked, everted, reinforced, straight border, with a flange, with or without false handles. (Height: 15 cm., Diameter: 15 cm.).

I. D. 4. b. iv. *Mocasines* (shoe shaped) vessels, squash gourds, different-sized zoomorphous and anthropomorphous figures.

I. D. 4. c. Guane. A characteristic of this pottery is that it has light brown, orange and dark brown slips. The decoration consists of linear, spiral, dotted incisions and geometric designs. It also displays band appliqué, molded in anthropomorphous and zoomorphous figures. On the orange slips, the designs are painted in red and/or white, inside or outside. The principal Guane forms are:

I. D. 4. c. i. Semi globular earthen bowls with straight or slightly inverted border (Height: 9 cm., Diameter: 15 cm.) and cups with straight borders, slightly inverted or everted, with low ring-shaped support. Some cups show internal and external decoration, displaying appliqué zoomorphous figures, particularly frogs (Height: 10 cm., Diameter: 15 cm.).

I. D. 4. c. ii. Double or triple earthen bowls joined by a lower bridge and an upper bridge handle; the latter can represent a zoomorphous figure (Height: 10 cm., Length: 24 cm.).

I. D. 4. c. iii. Globular and sub globular pots with inverted border. Some display upper bridge handles and others display two or more rounded handles located on the border of the body; other handles can be placed horizontally on the body (Height: 15 cm., Diameter: 20 cm.).

I. D. 4. c. iv. Globular vessels with low ring-shaped support, short and narrow-necked, slightly everted border, coming with two or more handles from border to body (Height: 15 cm., Diam-

eter: 13 cm.) and sub globular narrow-necked vessels with slightly everted border, and with two opposing handles from border to body, or neck to body (Height: 25 cm., Diameter: 20 cm.).

I. D. 4. c. v. Globular, sub globular, and keel-shaped pitchers, short-necked and long, occasionally displaying anthropomorphous appliqué or painted decoration, straight and slightly everted borders, flat rounded handles from border to body, or neck to body (Height: 25 cm., Diameter: 23 cm.), occasionally portraying this form in miniature or in double vessels joined by lower and upper bridges. Some come with two and three necks for the same body.

I. D. 4. c. vi. Keel-shaped vessel, narrow and short necked with two opposing handles ending in an inverted form with a very narrow mouth (Height: 20 cm., Diameter: 21 cm.).

I. D. 4. c. vii. Barrel-shaped vessels in a horizontal position, narrow and short-necked with opposing handles, separating from the middle of the body. On some occasions, they display appliqué zoomorphous motifs and hollow cylindrical supports with painted decoration, forming linear and spiral geometrical motifs.

I. D. 4. d. Malagana. This seems to be a local style of the Calima macro-region, because it has very similar vessels to the complex Calima pottery. It is characterized by the use of modeled and negative black and white paint on red. Some vessels display fine incisions and black and light brown slips as decoration. The most common forms of Malagana Vessels are:

I. D. 4. d. i. Semi-globular, globular, and keel-shaped earthen bowls, with mammiform or tubular supports.

I. D. 4. d. ii. Anthropomorphous cups with the figure kneeling down (Height: 16 cm., Diameter: 12 cm.).

I. D. 4. d. iii. Globular, oval, compound, phytomorphous, anthropomorphous and zoomorphous, single or double-spouted alcarrazas (Height: 20 cm., Diameter: 18 cm.).

I. D. 4. d. iv. Realistic zoomorphous containers in very varied dimensions depending on the figure.

I. D. 4. e. Muisca. The main Muisca forms are:

I. D. 4. e. i. Semi globular earthen bowls with straight or slightly inverted border, their decoration black and/or red paint or incised, forming geometric designs.

I. D. 4. e. ii. Semi globular earthen bowls, with flat keel-shaped border portraying lentil-shaped, zoomorphous, spiral and appliqué figures, with dotted decoration and two rounded handles or a bridge handle. The pottery comes in black (Height: 10 cm., Diameter: 15 cm.).

I. D. 4. e. iii. Straight border cups, slightly everted, with short or tall ring-shaped support and with the painted geometric decoration usually at the top. On the external part, they display

appliqué or painted serpent-like motifs. Occasionally, the border comes with zoomorphous and anthropomorphous appliqués. The most recurrent decoration colors are white and red (Height: 10 cm., Diameter: 15 cm.). Occasionally, there are double cups joined together by bridges.

I. D. 4. e. iv. Globular and sub globular pots with inverted border, the decoration of which consists of red geometric and linear designs. Their characteristic is to have multiple handles; some can even have decorated handles at the top (Height: varies between 10 and 40 cm., Diameter: 15 to 45 cm.).

I. D. 4. e. v. Sub globular or keel-shaped pitchers, narrow-necked and with straight or slightly everted border, and with one or two flat opposing handles from neck to body. Occasionally, they display representations of anthropomorphous faces, or dotted or striped incisions in the neck, and false handles. Colors vary from red and white to grey and white (Height: 23 cm., Diameter: 18 cm.).

I. D. 4. e. vi. Globular, sub globular, and keel-shaped short-necked pitchers, with straight everted borders, flat or rounded handles from border to body, or neck to body (Height: 20 cm., Diameter: 22 cm.). The decoration consists of linear design with red or gray and white paint.

I. D. 4. e. vii. Globular, sub globular, or keel-shaped *múcuras*, very narrow and tall, with a flat handle from neck to body. The neck generally displays appliqué or painted anthropomorphous and zoomorphous figures, occasionally with false handles; the paint can cover the top part of the vessel's body. Dimensions vary (Height: minimum of 10 cm. to 50 cm., Diameter: 12 cm. to 40 cm.). Occasionally, there can be double *múcuras* joined by bridges or *múcuras* with two necks.

I. D. 4. e. viii. Barrel-shaped vessels in a horizontal position, narrow and short-necked with opposing handles separated from the body; on some occasions they have appliqué anthropomorphous or zoomorphous motifs (Height: 20 cm., Width: 24 cm.). Hollow cylindrical supports with painted decoration forming geometric motifs with lines and spirals.

I. D. 4. e. ix. *Mocasines* (shoe shaped) vessels, generally black, come with a lateral handle from border to body or neck to body. The decoration is appliqué with zoomorphous motifs and dotted incisions. The dimensions vary (Height: 9 to 15 cm., Width: maximum between 10 and 20 cm.).

I. D. 4. e. x. Offertories, or hollow anthropomorphous figures, with an opening in the front or back or on the top. They are modeled figures with incised, dotted and appliqué decoration, displaying great diversity in their attire, especially the head ornaments. On some occasions, these figures have one or more anthropomorphous figures or smaller-sized vessels. The slip var-

ies in tones of brown and occasionally comes in red linear paint. The dimensions are very varied, ranging from a height of 40 cm. to 11 cm. approximately. There also are circular offertories, occasionally showing anthropomorphous figures on the body with simple flat or anthropomorphous lids with similar characteristics to the previous ones. The latter have an average height of 15 cm.

I. D. 4. f. *Nariño*. This pottery comes in two types: Capulí, and Piartal-Tuza.

The Capulí pottery displays modeled decoration and negative black paint on red. Cups are its most characteristic form. The common forms are:

I. D. 4. f. i. Globular, semi globular, and square cups, their supports are short, medium, and tall ring-shaped. They occasionally come with modeled anthropomorphous figures supporting the cup. The borders are straight, everted, or slightly inverted (Height: 10 cm., Diameter: 13 cm.).

I. D. 4. f. ii. Semi globular earthen bowls (Height: 8 cm., Diameter: 16 cm.). Some earthen bowls have an upper bridge handle, in the form of a basket. Occasionally, they come in double or triple vessels.

I. D. 4. f. iii. Globular vessels with or without a narrow neck and a wide mouth, everted border, or flanges.

I. D. 4. f. iv. Keel-shaped and lentil-shaped vessels with everted border. Some vessels have three or four light supports attached by internal pressure. These forms can have a flange at the center of the body. Others have serpent-like bands appliquéd vertically.

I. D. 4. f. v. Tripod-shaped globular vessels or ones with zoomorphous modeled figures forming the border.

I. D. 4. f. vi. Globular, lentil-shaped, or keel-shaped vessels with lentil-shaped appliqués set on the greatest diameter (Height: 8 cm., Diameter: 12 cm.).

I. D. 4. f. vii. Sub globular vessels with narrow neck and straight border, low ring-shaped support.

I. D. 4. f. viii. Zoomorphous or anthropomorphous vessels depicting an animal or human seated on a bench with its legs crossed or extended, chewing coca, or with an open mouth. The dimensions are very varied, and they depend on the theme represented. Some are miniatures.

I. D. 4. f. ix. The Piartal-Tuza pottery is characterized by having red, orange and/or black on brown paint decoration with many stylized representations of fauna, anthropomorphous figures, or geometric designs. Its most characteristic forms are:

I. D. 4. f. x. Dishes with low ring-shaped support (Height: 7 cm., Diameter: 14 cm.).

I. D. 4. f. xi. Semi globular earthen bowls (Height: 6 cm., Diameter: 15 cm.).

I. D. 4. f. xii. Globular vessels, narrow-necked, wide-mouthed, neck slightly everted and short, with tripod-shaped or tetrapod support achieved by internal pressure (Height: 8 cm., Diameter: 13 cm.).

I. D. 4. f. xiii. Cups with low ring-shaped support, straight or everted border, with one or two handles (Height: 12 cm., Diameter: 14 cm.).

I. D. 4. f. xiv. Globular vessels, short-necked, everted border, wide-mouthed (Height: 15 cm., Diameter: 17 cm.); the globular, keel-shaped or lentil-shaped vessels are very short-necked and have a slightly everted or straight border (Height: 7 cm., Diameter: 10 cm.). These Vessels also come with tripod-shaped support, or low ring-shaped support, sometimes with a flange in the center of the vessel.

I. D. 4. f. xv. Square or rectangular earthen bowls having low ring-shaped support (Height: 5 cm. Width: 7 cm.).

I. D. 4. f. xvi. Amphorae with *aribaloide* (high-necked, oval-shaped urn) or flat bases, with or without handles (Height: varies between approximately 20 cm. and 120 cm., Diameter: varies between 15 cm. and 50 cm.).

I. D. 4. f. xvii. Small pitchers, with a handle, globular, sub globular or cylindrical body, flat, rounded, or with low ring-shaped support bases (Height: 10 cm., Diameter: 8 cm.).

I. D. 4. f. xviii. Compound silhouette "Piartal" vessels, keel-shaped, very narrow and long necked, everted border, rounded base and diverse geometric designs in brown, black or red on cream positive paint (Height: 25 cm., Diameter: 30 cm.).

I. D. 4. f. xix. "Tuza" vessels, sub-globular, conical, cylindrical, with short neck, straight or everted border, flat or rounded bases with low ring-shaped support, and diverse designs in positive paint (Height: varies between approximately 20 cm. and 90 cm., Diameter: varies approximately between 15 cm. and 50 cm.).

I. D. 4. f. xx. Dishes with low ring-shaped support and design in anthropomorphous and zoomorphous positive paint, especially monkeys, deer, birds, and feline figures.

I. D. 4. f. xxi. One variant of the Piartal-Tuza pottery is the "Quillacinga" style, with white on red paint decoration, in geometric design. Its main forms are low ring-shaped support dishes, globular vessels with lentil-shaped, globular, or keel-shaped appliqués, short-necked and slightly everted border and globular with narrow neck and everted border.

I. D. 4. g. Quimbaya. Classic forms of Quimbaya pottery vessels from the mid-Cauca river zone are decorated with black on red and orange negative resist paint, forming linear designs (cups,

vessels, figures). The classic forms include sub-globular keel-shaped bowls and globular keel-shaped and square vessels. They may be decorated with excised decoration covering the entire outer surface, or with incisions or appliqués, using light brown slips (Height: 8 cm., Diameter: 16 cm.). The most common forms are:

I. D. 4. g. i. Rectangular rounded-base vessels with anthropomorphic appliqués on the borders, incised linear decoration, red on cream and orange paint (Height: 10 cm., Width: 20 cm., Length: 30 cm.). With similar colors in linear and circular design inside, everted border earthen bowls. On the outside, they generally have incised decoration, dotted and appliqué bands (Height: varies between 7 and 10 cm., Diameter: the average is 20 cm.).

I. D. 4. g. ii. Sub globular vessels with narrow, short necks, some with two mouths and two handles (Height: 15 cm., Diameter: 13 cm.).

I. D. 4. g. iii. Keel-shaped vessels, wide-mouthed and with two handles decorated with linear designs in red paint (Height: 10 cm., Diameter: 12 cm.).

I. D. 4. g. iv. Semi globular earthen bowls with inverted or slightly everted border (Height: 10 cm., Diameter: 15 cm.).

I. D. 4. g. v. Truncated cone-shaped, flat-based cups (Height: 20 cm., Diameter: 18 cm.).

I. D. 4. g. vi. Truncated cone-shaped cups with bell-shaped support (Height: 15 cm., Diameter: 16 cm.). A variation of these cups is a semi globular body with appliqué white paint in linear form that overhangs the surface (Height: 15 cm., Diameter: 18 cm.).

I. D. 4. g. vii. Amphorae (Height: average between 20 and 60 cm., Diameter: between 15 and 40 cm.).

I. D. 4. g. viii. Small squash-type gourds (Height: 10 cm., Diameter: 11 cm.).

I. D. 4. g. ix. Anthropomorphic, zoomorphous, and phytomorphic alcarrazas decorated with negative resist three-colored paint (Height: 15 cm., Diameter: 15 cm.).

I. D. 4. g. x. Bottles with stirrup handle (Height: 29 cm., Diameter: 14 cm.). Hollow cylindrical supports, with lower and upper everted border (Height: 16 cm., Diameter: 14 cm.). Cups decorated with incisions or appliqués (Height: 12 cm., Diameter: 16 cm.).

I. D. 4. g. xi. Globular, sub globular pots, with flanges decorated with appliqués and/or incisions (Height: 15 cm., Diameter: 20 cm.).

I. D. 4. g. xii. Simple incised alcarrazas (Height: 19 cm., Diameter: 15 cm.).

I. D. 4. g. xiii. Vessels with black coloring, including rhomboid vessels with a flat base, everted border, round or square-

mouthed and decorated with appliqué anthropomorphous incised bands. Their very diverse dimensions range from 10 cm. to 20 cm., and from 8 cm. to 25 cm. Sometimes they are elongated; at other times they are wider.

I. D. 4. g. xiv. Elongated vessels in the form of a sail, with appliqué incised bands (Height: 10 cm., Length: 30 cm.).

I. D. 4. h. *San Agustín*. The vessels of this culture display varying slips in differing tones from brown to black with incised decoration in lines, triangles, and dots. Others come in negative resist black paint on red with geometric motifs. A characteristic of the pottery forms is the presence of an everted border inclined downwards. Very common are:

I. D. 4. h. i. Dishes with everted border (Height: 5 cm., Diameter: 15 cm.).

I. D. 4. h. ii. Globular, semi-globular, sub globular earthen bowls, keel-shaped with straight, everted, or slightly everted border (Height: varies between 8 and 20 cm., Diameter: varies between 10 and 30 cm.).

I. D. 4. h. iii. Globular pots and compound silhouette with everted border (Height: 20 cm., Diameter: 20 cm.).

I. D. 4. h. iv. Globular vessels with tripod-shaped everted border (Height: 20 cm., Diameter: 18 cm.).

I. D. 4. h. v. Keel-shaped, globular, and sub globular vessels, narrow-necked and wide-mouthed and everted border (Height: ranging from 50 to 15 cm., Width: from 30 cm. to 10 cm.).

I. D. 4. h. vi. Globular and semi globular cups with tubular support and horizontal everted border (Height: 18 cm., Diameter: 15 cm.).

I. D. 4. h. vii. Simple anthropomorphous alcarrazas (Height: 12 cm., Diameter: 12 cm.).

I. D. 4. h. viii. Double vessels joined together by upper and lower bridge handles (Height: 20 cm., Length: 30 cm.).

I. D. 4. i. *San Jorge*. The manufacturing technique is spiraled and modeled, with incised decoration, dots, notches, extensive bands, and zoomorphous appliqués. The wide range of browns on this pottery's slip goes from light to dark reddish. The vessels displaying paint use red, forming geometric designs. The texture is granular and sometimes cracked for First Occupation period pottery. By the Second Occupation period, the texture becomes compact and fine.

In the Classic Period:

I. D. 4. i. i. Cups with tall, short, and bell-shaped supports.

I. D. 4. i. ii. Cups with lids.

I. D. 4. i. iii. Cups with narrow mouths.

I. D. 4. i. iv. Cups with keel shapes (Height: 15 cm., Diameter: 15 cm.).

I. D. 4. i. v. Alcarrazas, baskets, globular vessels, globular vessels with ring-shaped support (Height: 15 cm., Diameter: 20 cm.).

The main forms from the Second Occupation period are:

I. D. 4. i. vi. Globular and sub globular vessels (Height: 15 cm., Diameter: 20 cm.).

I. D. 4. i. vii. Cups with low pedestal support and an average diameter of 15 cm. Some cups are approximately 30 cm. high.

I. D. 4. j. Sinú. The ceramic vessels come in a diversity of forms. The main ones are:

I. D. 4. j. i. High pedestal cups with incised and excised decoration, forming geometric designs, especially rhombus (Height: 25 cm., Diameter: 10 cm.).

I. D. 4. j. ii. High pedestal cups with appliqué modeled anthropomorphous figures, with incised decoration. They frequently represent standing female figures (Height: 25 cm., Diameter: 10 cm.).

I. D. 4. j. iii. Cups with perforated compound supports, the globular vessels with a flat base, neck, and everted border with female figures attached to the body, and sub globular vessels with ring-shaped support.

I. D. 4. j. iv. Compound silhouette vessels and also globular narrow-necked vessels, with everted border and black and red on cream decoration, forming a linear design, or with anthropomorphous appliqués (Height: 30 cm., Diameter: 30 cm.) The ceramic slip, also called "Betancí," is light brown, beige, and very light beige.

I. D. 4. k. Tairona. The Tairona manufacturing technique is by rolls and modeled. The slips are beige, gray, black, dark brown, and reddish brown. They also display linear incisions, dotted, zoomorphous, and anthropomorphous appliqués, and appliqué bands. The black and the beige Tairona pottery typically comprise principally ceremonial vessels, whereas the red pottery includes domestic forms. The common forms are:

I. D. 4. k. i. Globular vessels, wide-mouthed and everted border.

I. D. 4. k. ii. Globular vessels, narrow-necked and everted border.

I. D. 4. k. iii. Keel-shaped vessels, wide-mouthed.

I. D. 4. k. iv. Globular vessels, high neck and low ring-shaped support (Height: 20 cm., Diameter: 20 cm.).

I. D. 4. k. v. Semi globular cups with ring-shaped support.

I. D. 4. k. vi. Keel-shaped cups with stylized, high, medium, and low support, especially the tallest ones (Height: 20 cm., Diameter: 15 cm.).

I. D. 4. k. vii. Globular and keel-shaped vessels with ring-shaped support, wide-mouthed, side spout and upper bridge

handle, sometimes displaying zoomorphous appliques at the top, opposite the spout (Height: 15 cm., Diameter: 15 cm.).

I. D. 4. k. viii. Double vessels joined by a bridge at the bottom with an upper bridge handle, generally with appliques on the body.

I. D. 4. k. ix. Vessels elongated horizontally with a zoomorphous representation on each end; a narrow and short neck is in the center of the vessel, and the support is ring-shaped (Height: 15 cm., Length: 25 cm.).

I. D. 4. k. x. Zoomorphous and anthropo-zoomorphous (depicting both human and animal characteristics) tetrapod vessels with narrow neck (Height: 10 cm., Length: 20 cm.).

I. D. 4. l. *Tierradentro*. The ceramic vessels of this archaeological culture are similar in form and decoration to the San Agustín pottery. The most representative vessels of this region are funerary urns with brown, red, and negative resist paint slips, decorated with incised dotted decoration forming triangles filled-in with white paste and/or modeled appliques in zoomorphous, especially serpent-like figures. Their dimensions vary (Height: 20 to 50 cm., Diameter: 25 and 40 cm.). Another special *Tierradentro* form is the anthropomorphous mask and alcarraza.

I. D. 4. m. *Tolima*. This pottery displays anthropomorphous and zoomorphous motifs that are modeled, appliqué, incised, carved, and/or stamped. The slips come in light and dark brown and reddish brown. Some objects have a geometric design decoration in black on light brown or red negative resist paint. The common forms are:

I. D. 4. m. i. Semi globular, keel-shaped earthen bowls, compound silhouette, some with two handles, straight, everted, inverted or compound borders, abundant decoration (Height: 5 cm., Diameter: 10 cm.).

I. D. 4. m. ii. Globular, sub globular, keel-shaped vessels, with flanges in the center of the body, short-necked, wide-mouthed, direct or everted borders, flat or rounded bases, with or without handles, with abundant decoration. Some have tetrapod or tripod-shaped supports and others are phytomorphous (Height: 15 cm., Diameter: 18 cm.).

I. D. 4. m. iii. Semi globular cups, everted border, tall supports generally perforated at intervals (Height: varies between 8 cm. and 35 cm., Diameter: varies between 15 cm. and 32 cm.).

I. D. 4. m. iv. Alcarrazas with straight spouts (Height: 15 cm., Diameter: 18 cm.) with phytomorphous and zoomorphous motifs and those depicting figures of houses.

I. D. 4. m. v. In the Guaduas, Tolima region, globular or keel-shaped vessels, the top tubular bifurcated part ending in an anthropomorphous or zoomorphous figure (Height: 20 cm., Diameter: 18 cm.).

I. E. Ceramic Funerary Urns

This category of ceramic artifacts consists of a great variety of objects whose function was to contain human remains in secondary burials. They are either alone in the tombs or with funerary accoutrements. They contain, in the untouched deposits, complete human bones or fragments of bones from one or more individuals.

I. E. 1. *Buga, Cumbre, Pavas, and Guabas*

This pottery relates to the Sonso style, with brown slip and white and red paint whenever present. Some have appliquéés with anthropomorphous designs. It consists of cylindrical, globular, and sub globular funerary urns (Height: 70 cm., Diameter: 40 cm.). Another characteristic form is cylindrical vessels with four handles (Height: 20 cm., Diameter: 15 cm.).

I. E. 2. *El Espinal, Ricaurte, Honda, and Girardot (Panche and Pijao)*

These funerary urns for secondary burials come in sub globular inverted-necked, with dish-form lids. The urns generally represent a human face with modeled bands. Some urns are multi-colored, displaying geometric designs in red and black. Others depict zoomorphous modeled and appliqué figures. The dimensions of these urns are similar to the previous ones. Their lids have the following dimensions: about 6 cm. high and 20 cm. wide.

I. E. 3. *Guajira*

Globular and conical-stemmed funerary urns (Height: 30 cm., Diameter: 30 cm.).

I. E. 4. *La Miel, Guarinó, and Puerto Serviez (Pantágora)*

These urns are oval-shaped in diverse variants; some are cylindrical and short-necked with a wide mouth. The decoration is linear incised at the top, occasionally forming a rhombus. It is dotted, in between parallel lines. A characteristic of the La Miel river urns is that they have anthropomorphous and zoomorphous figures attached, embracing the neck of the urn. The lids are sub globular, with incised and dotted decoration, forming geometric designs. The anthropomorphous figures are attached, sitting on benches with their hands on the rolls or holding earthen bowls or cups in one or both hands. In some, small, perforated shell discs are attached on the figures of the La Miel lids. Other lids come with zoomorphous, preferably ornitomorphous, figures in sets of two or more. The dimensions of the urns range from the largest (Height: 55 cm., Diameter: 42 cm.) to the smallest (Height: 20 cm., Diameter: 20 cm.). The average lid size is (Height: 20 cm., Diameter: 20 cm.).

The Puerto Serviez urns display gray shaded slips, and others come in different tones of brown to reddish brown slips.

I. E. 5. *Llanos Orientales (Eastern Plains)*

The urns of this region are generally cylindrical, with flanges, or sub globular, compound silhouettes, straight borders, generally flat bases, white positive paint and anthropomorphous or zoomorphous appliqués modeled on the body or on the border (Height: 35 cm., Diameter: 30 cm.). The urns have appliqué zoomorphous decoration (especially bat figures). The slip is usually reddish and with red positive paint, forming geometric designs.

I. E. 6. *Putumayo*

The main forms of Putumayo funerary urns are sub globular, with straight neck and everted border (Height: 66 cm., Diameter: 65 cm.).

I. E. 7. *Quimbaya*

Quimbaya pottery is found in mid-Cauca river zone (Cauca Medio). The earliest forms in the zone are associated with the pottery known as Marrón Inciso (incised brown), the most common forms of which are cylindrical funerary urns with rounded base, modeled borders, and incised decoration in the form of a fishbone. Also common are urns with anthropomorphous appliqués and phytomorphous urns. This ceramic slip is black and brown. The dimensions vary from (Height: 20 to 40 cm., Diameter: 34 and 15 cm.).

I. E. 8. *Sinú*

Sub globular funerary urns with slightly everted border and perforated ring-shaped support (Height: 25 cm., Diameter: 20 cm.). A variant of this urn type averages 80 cm. in height.

I. E. 9. *Tairona*

These funerary urns are common: globular and sub globular, short and wide-necked, with anthropomorphous appliqués on the neck and body, sometimes with low ring-shaped support (Height: 70 cm., Diameter: 60 cm.).

I. E. 10. *Tamalameque, Mosquito, and Chimila*

These urns for secondary burials have anthropomorphous lids. The urns in general are cylindrical, with flat or circular bases and straight or slightly inverted border. Mosquito urns are occasionally oval-shaped. Some come with zoomorphous modeled and incised appliqués on the top, like false handles.

The Tamalameque lids are semi globular, with a human figure attached on the top, represented by the head and torso. The head is generally full-sized and very realistic. The heads come in two types: one is modeled in two dimensions with a straight outline, small ex-

tended arms to the sides with open hands; the second head type has a hollow inside and is more realistic. The arms are in various positions.

The Mosquito lids have complete anthropomorphous representations, seated on benches and with their hands resting on their knees. Occasionally, the figures are decorated with zoomorphous motifs.

The bigger urns are approximately 50 cm. high and with a diameter of approximately 31 cm. The smallest ones are approximately 20 cm. high and with a diameter of approximately 18 cm.

The average size of the lids is: Height: 38 cm., Diameter: 30 cm.

The manufacturing technique used in these urns was modeling; the slips vary from light brown to reddish tones, some displaying white paint.

Outstanding in Chimila pottery are the funerary urns, with anthropomorphous modeled figures, represented in the lid—which pertains to the head—and the body—which pertains to the extremities (Height: 20 cm., Diameter: 18 cm.).

I. E. 11. *Tumaco - La Tolita*

Sub globular with everted border urns (Height: 50 cm., Diameter: 50 cm.). These containers show fine, linear incisions at the top.

I. F. Miscellaneous Ceramic Object Types

This category contains the articles that do not fit in the Figurines, Vessels, or Urns Categories. It includes materials from cultures from around the country:

I. F. 1. *Calima*

The Sonso style of Calima pottery is seen in anthropomorphous masks and some miniatures, particularly in the Recent Period.

I. F. 2. *Guaqira*

Zoomorphous *Mocasines* (shoe shaped) vessels are frequent (Approximate length: 15 cm.).

I. F. 3. *Nariño*

Ocarinas (whistles) are common in snail form, sometimes with modeled anthropomorphous or zoomorphous representations on one of their ends. The painted designs are diverse, as well as their dimensions. The average length is about 7 cm.

I. F. 4. *Quimbaya*

Diverse forms of spindle whorls are common, some are hollow and some are rattles with incised decoration filled in with white paste. Their average dimensions are: Height: 3 cm., Diameter: 5 cm. Seals are flat as well as cylindrical, both hollow and solid. They have ex-

cised decoration in geometric designs. Common also are *Mocasines* (shoe shaped) vessels with appliqué decoration (Height: 10 cm., Length: 15 cm.).

I. F. 5. *San Jorge*

Rolls, spindle whorls and anthropomorphous figures. The latter's average dimensions are 10 x 8 x 4 cm. Likewise, miniature pottery with average dimensions of 4 x 3 cm.

I. F. 6. *Sinú*

Lavishly decorated earthen bowl miniatures. Also *Mocasines* (shoe shaped) vessels, rolls, and spindle whorls.

I. F. 7. *Tairona*

Anthropomorphous and zoomorphous whistles, especially birds, feline figures, and bats (Height: 5 cm.).

I. F. 8. *Tumaco*

Tabloid graters in different forms, like fish and others, as well as representations of small dwellings, and seals and molds for pottery production.

I. G. Gold

This category comprises objects of gold and of alloys that include gold with copper, platinum, or other metals, dating mostly to the Classic and Recent Periods and associated with the following culture groups: Calima, Muisca, Nariño, Quimbaya, Sinú, Tairona, Tolima, Tumaco, Cauca, Tierradentro, and San Agustín. Figurative pieces are characterized by elaborate and well-executed work; they represent animal and human forms, as well as supernatural beings. They were produced and decorated using the following techniques: Embossing, soldering, hammering, lost wax casting, no-nucleus melting, stone matrix mold melting, solid no-nucleus melting, sheet fusion, and wire filigree. Examples of articles made in gold and gold alloys include: Beads, Bells, Belts, Bracelets and Anklets, Pectorals and Pendants, Ceremonial Staffs and Finials, Combs, Containers, Mesh, Crowns and Helmets, Ear and Nose Ornaments, Animal and Human Figures, Finger Ornaments, Fishhooks, Gold Casting Paste, Knobs, Lime Containers, Lip Plugs, Masks, Musical Instruments, Necklaces, Needles and Pins, Pincers and Tweezers, and Wire.

I. H. Wood

This category refers to articles carved in hard woods, mainly small benches and chairs, staffs, needles, weavers' tools, sarcophagi, chonta palm wooden swords (especially in the Calima and San Agustín regions), and anthropomorphous sculptures in hard woods

(particularly in the Muisca region). They are in evidence from all archaeological periods.

I. I. Portable Stone

Carved and polished archaeological stone articles in Colombia are common and varied. Lithic articles come from tombs and other types of storage from all periods, ranging from the Paleo-Indian to the Colonial era. The most common stone artifacts that are looted and traded on the illicit market are flat decorative pendants, tabular necklace beads, ritual monolithic hand axes, hoes, and other small hard polished stone articles mainly from the Calima, Tairona, Guane, Muisca, and Alto Magdalena regions.

I. J. Bone

Articles carved from animal bone, from all archaeological periods. They are in the form of needles, netting hooks, musical instruments (flutes), and beads, or pendants (especially in the Muisca, Guane, Calima and San Agustín regions).

I. K. Textiles

The majority of archaeological textiles found in Colombia originate in human burial offerings. These textiles were made mainly on looms, utilizing cotton, sometimes dyed, as the raw material. They come from the Muisca, Guane, and Nariño Classic periods. In Nariño, they also include additions in metal like tumbaga and gold.

II. ECCLESIASTICAL ETHNOLOGICAL MATERIALS

The categories of Colombian ethnological materials excluded from importation into the United States comprise objects that were made between A.D. 1530 and 1830, with ecclesiastic purpose or association, under the stewardship of the Church.

II.A. Wooden Items

II. A. 1. Paintings on wood panels (depicting religious and symbolic themes)

II. A. 2. Sculpture (polychrome on gesso preparation over wood, including dressed and dressable figures used in religious settings)

II. A. 3. Crucifixes

II. A. 4. Altarpieces

II. A. 5. Retablos (carved altar screens)

II.B. Metal Objects, Accoutrements & Fittings (Gold, Silver, and Other Metals)

II. B. 1. Paintings with religious motifs on metal panels

II. B. 2. Chalices, pitchers, and drinking cups used for religious ceremonies

II. B. 3. Urns and custodia (monstrances) used to display the communion wafer

II. B. 4. Processional or stationary crosses

II. B. 5. Head pieces, wings, and other accoutrements from statues or effigies

II. B. 6. Candlesticks and candelabra

II. B. 7. Plaques

II.C. Textiles

II. C. 1. Garments, such as vestments and tunics worn by clergy (often embroidered with silver and gold threads, with stone appliques)

II. C. 2. Altar hangings and altar garments

II. C. 3. Tapestries and carpets

II. C. 4. Paintings on cloth

II.D Paper, Parchment, Leather

II. D. 1. Unique letters, artwork, documents, and manuscripts on paper, parchment, or leather

II. D. 2. Incunabula (books made before printing, such as hymnals and other Colonial-era books, usually with special bindings)

Signing Authority

This regulation is being issued in accordance with § 0.1(a)(1) of the CBP Regulations (19 CFR 0.1(a)(1)).

Inapplicability of Notice and Delayed Effective Date

Because this amendment to the CBP regulations imposing import restrictions on the above-listed cultural property of Colombia is being made in response to a bilateral agreement entered into in furtherance of a foreign affairs function of the United States, pursuant to section 553(a)(1) of the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in E.O. 12866.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, Part 12 of the Customs Regulations (19 CFR Part 12) is amended as set forth below:

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority and specific authority citations for Part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized

Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;

* * * * *

2. In § 12.104g, paragraph (a), containing the list of agreements imposing import restrictions on described articles of cultural property of State Parties, is amended by adding Colombia to the list in appropriate alphabetical order as follows:

§ 12.104(g) Specific items or categories designated by agreements or emergency actions.

(a) * * *

State Party	Cultural Property	Decision No.
* * * *	* *	*
Colombia.....	Pre-Colombian Archaeological Material ranging approximately from 1500 B.C. to 1530 A.D. and ecclesiastical ethnological material of the Colonial period ranging approximately from A.D. 1530 to 1830	CBP Dec. 06 – 09
* * * *	* *	*

* * * * *

DEBORAH J. SPERO,
Acting Commissioner,
Customs and Border Protection.

Approved: March 14, 2006

TIMOTHY E. SKUD

Deputy Assistant Secretary of the Treasury

[Published in the Federal Register, March 17, 2006 (71 FR 13757)]

DEPARTMENT OF HOMELAND SECURITY,
OFFICE OF THE COMMISSIONER OF CUSTOMS.

Washington, DC, March 15, 2006

The following documents of the Bureau of Customs and Border Protection ("CBP"), Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and CBP field offices to merit publication in the CUSTOMS BULLETIN.

SANDRA L. BELL,
*Acting Assistant Commissioner,
Office of Regulations and Rulings.*

19 CFR PART 177

MODIFICATION OF RULING LETTER AND REVOCATION OF
TREATMENT RELATING TO THE CLASSIFICATION OF A LA
PERRUCHE SUGAR CHUNKS

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of modification of a ruling letter and revocation of treatment relating to the tariff classification of A La Perruche sugar chunks.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that Customs and Border Protection ("CBP") is modifying a ruling letter pertaining to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of A La Perruche brown sugar chunks and revoking any treatment previously accorded by CBP to substantially identical transactions. Notice of the proposed action was published in the *Customs Bulletin* on January 25, 2006. No comments were received in response to this notice.

EFFECTIVE DATE: This modification and revocation is effective for merchandise entered or withdrawn from warehouse for consumption on or after May 28, 2006.

FOR FURTHER INFORMATION CONTACT: Keith Rudich, Tariff Classification and Marking Branch, (202) 572-8782.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "informed compliance" and "shared responsibility." These concepts are premised on the idea that in order to maximize voluntary compliance with CBP laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the CBP and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, a notice was published on January 25, 2006, in the *Customs Bulletin* Vol. 40, No. 5, proposing to modify HQ 952419, dated October 15, 1992. This ruling pertained to the tariff classification of A La Perruche brown sugar chunks. No comments were received in response to this notice.

As stated in the proposed notice, this modification will cover any rulings on this merchandise which may exist but have not been specifically identified. Any party who has received an interpretive ruling or decision (i.e., ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should have advised CBP during the comment period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP is revoking any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should have advised CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to the effective date of this final notice.

In HQ 952419, dated October 15, 1992, CBP found that A La Perruche brown sugar chunks were classified in subheading

1701.11.0125, HTSUSA, as raw cane sugar, not containing added flavoring or coloring matter. CBP has reviewed the matter and determined that the correct classification of the A La Perruche brown sugar chunks is in subheading 1701.91.1000, HTSUSA, which provides for "Cane or beet sugar and chemically pure sucrose in solid form: Other: Containing added flavoring or coloring matter: Containing added coloring but not containing added flavoring matter: Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions." If not imported as described in additional note 5 to Chapter 17 and not entered pursuant to its provisions, the correct classification of the A La Perruche brown sugar chunks is in subheading 1701.91.3000, HTSUSA, which provides for "Cane or beet sugar and chemically pure sucrose, in solid form: Other: Containing added flavoring or coloring matter: Containing added coloring but not containing added flavoring matter: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP is modifying HQ 952419, and any other ruling on this merchandise not specifically identified which is inconsistent with this modification, to reflect the proper classification of the merchandise pursuant to the analysis set forth in HQ 967303, attached to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP is revoking any treatment previously accorded by CBP to substantially identical transactions.

Dated: March 13, 2006

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachment

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 967303
CLA-2 RR:CTF:TCM 967303 KBR
CATEGORY: Classification
TARIFF NO.: 1701.91.1000

SIMEON M. KRIESBERG, ESQ.
1909 K Street, N.W.
Washington, D.C. 20006-1101

RE: Modification of HQ 952419; A La Perruche Sugar Chunks

DEAR MR. KRIESBERG:

This is in reference to HQ 952419, issued to you, on behalf of you client Bri-Al, Inc., by the U.S. Customs Service (now Customs and Border Protection ("CBP")), on October 15, 1992. That ruling concerned the classification of A La Perruche white and brown sugar chunks under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). In HQ 952419, we

determined that caramel added to brown sugar chunks was not added coloring and, therefore, the brown sugar chunks were classified in subheading 1701.11.0125, HTSUSA, as "Cane or beet sugar and chemically pure sucrose, in solid form: Raw sugar not containing added flavoring or coloring matter: Cane sugar." We have reviewed HQ 952419 and determined that the classification provided for the brown sugar chunks is incorrect. Classification of the white sugar chunks was correctly stated in HQ 952419 and will not be addressed here.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), a notice was published on January 25, 2006, in Vol. 40, No. 5 of the *Customs Bulletin*, proposing to modify HQ 952419. No comments were received in response to this notice.

FACTS:

The article consists of brown and white irregularly shaped sugar chunks sold under the name "A La Perruche". The sugar chunks are created by first taking raw sugar and refining it through filtration, crystallization and maturation until the sugar agglomerates into bars. The brown sugar is produced by adding caramelized syrup made from the cane sugar during refining. The bars are broken into irregular lumps and are packaged into boxes which are imported into the United States for retail sale. You stated that the brown sugar has a polarity of 98.9 degrees. You also stated that the Department of Agriculture does not consider this product to be "Specialty Sugar" as defined in 15 C.F.R. § 2011.202(j).

ISSUE:

Whether the caramel added to the sugar chunks is considered coloring matter?

LAW AND ANALYSIS:

Merchandise is classifiable under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) in accordance with the General Rules of Interpretation (GRIs). Under GRI 1, merchandise is classifiable according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

In interpreting the headings and subheadings, CBP looks to the Harmonized Commodity Description and Coding System Explanatory Notes (EN). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUSA. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUSA provisions under consideration are as follows:

- | | |
|---------|--|
| 1701 | Cane or beet sugar and chemically pure sucrose, in solid form: |
| | Raw sugar not containing added flavoring or coloring matter: |
| 1701.11 | Cane sugar: |

	*	*	*	*	*
1701.11.1000					Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.
	*	*	*	*	*
					Other:
1701.91					Containing added flavoring or coloring matter:
					Containing added coloring but not containing added flavoring matter:
	*	*	*	*	*
1701.91.1000					Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.
1701.91.3000					Other.
	*	*	*	*	*
1701.99					Other:
	*	*	*	*	*
1701.99.10					Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.

At issue is the classification of brown sugar chunks. The sugar forming the chunks have caramelized sugar syrup added to change the color to a brown or amber shade.

Heading 1701 provides for cane or beet sugar and chemically pure sucrose, in solid form. The EN's to 1701 provide, in pertinent part that, "**Cane sugar** is derived from the juices of the sugar cane stalk." As the sugar chunks fit this description, they are classifiable in heading 1701.

At the six digit subheading level, 1701.11 provides for raw cane or beet sugar, not containing added flavoring or coloring matter, while 1701.91 provides for other cane and beet sugar, containing added coloring but not containing added flavoring matter and 1701.99 provides for other cane or beet sugar, other.

Subheading Note 1 to Chapter 17 states that:

For the purposes of subheadings 1701.11 and 1701.12, "raw sugar" means sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5 degrees.

The EN's to 1701 indicate that:

Raw or crude cane or beet sugars occur in the form of brown crystals, the colour being due to the presence of impurities. Their sucrose content by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5°. . . . They are generally destined for processing into refined sugar products. Raw sugar may, however, be of such a high degree of purity that it is suitable for human consumption without refining.

Refined cane or beet sugars are produced by the further processing of raw sugar. They are generally produced as a white crystalline substance

which is marketed in various degrees of fineness or in the form of small cubes, loaves, slabs, or sticks or regularly moulded, sawn or cut pieces.

In addition to the raw or refined sugars mentioned above, this heading covers brown sugar consisting of white sugar mixed with small quantities of, e.g. caramel or molasses, and sugar candy consisting of large crystals produced by slow crystallization of concentrated solutions of sugar.

* * * * *

The instant A La Perruche brown sugar chunks' sucrose content by weight, in the dry state, is 98.9 international sugar degrees. HQ 952419, citing Subheading Note 1 and Additional U.S. Note 1 to Chapter 17, HTSUSA, found that this indicated the product was raw sugar. We agree. However, in HQ 952419, because the caramelized syrup is itself a sugar product and it is commonly added to refined sugar in order to produce brown sugar, CBP found that the addition of caramelized syrup to the sugar was not considered adding coloring or flavoring. We disagree that the addition of the caramelized syrup is not added coloring.

The purpose of adding the caramelized syrup is to change the color of the sugar. Further, this issue was considered by the Harmonized System Committee of the World Customs Organization. In NC0728E1 (HSC/31) in November 2003 (Annex F/8 to Doc. NCO796E2), the Harmonized System Committee decided that the addition of a small quantity of caramel to produce brown sugar chunks was adding a coloring matter. Therefore, the Harmonized System Committee issued a Compendium of Classification Opinion which classified the brown sugar chunks under consideration in subheading 1701.91, HTSUSA. See HSC/33 Doc. NC0845B2, Annex M/5, May 2004.

As stated in T.D. 89-80, decisions in the Compendium of Classification Opinions should be treated in the same manner as the EN's, *i.e.*, while neither legally binding nor dispositive, they provide a commentary on the scope of each heading of the HTSUS and are generally indicative of the proper interpretation of these headings. T.D. 89-80 further states that EN's and decisions in the Compendium of Classification Opinions "should receive considerable weight." See HQ 966328 (March 31, 2003). Therefore, because we find the caramelized syrup to be added coloring and because we find the Harmonized System Committee decision informative, we hold that the A La Perruche brown sugar chunks are classified in subheading 1701.91, HTSUSA, as "Cane or beet sugar and chemically pure sucrose, in solid form: Other: Containing added coloring or coloring matter".

HOLDING:

In accordance with the above discussion, the A La Perruche brown sugar chunks are classified in heading 1701, specifically in subheading 1701.91, HTSUSA, as "Cane or beet sugar and chemically pure sucrose, in solid form: Other: Containing added coloring or coloring matter". If the A La Perruche brown sugar chunks are as described in additional U.S. note 5 to Chapter 17 and entered pursuant to its provisions, the specific classification will be as subheading 1701.91.1000, HTSUSA, which provides for "Cane or beet sugar and chemically pure sucrose, in solid form: Other: Containing added coloring or coloring matter: Containing added coloring but not containing added coloring matter: Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions." The 2006 column one, general rate of duty is 3.6606 cents per kilogram less 0.020668 cents per kilogram for each de-

gree under 100 degrees (and fractions of a degree in proportion) but not less than 3.143854 cents per kilogram. If not described in additional note 5 to Chapter 17 and not entered pursuant to its provisions, the applicable classification will be in subheading 1701.91.3000, HTSUSA, as "Cane or beet sugar and chemically pure sucrose, in solid form: Other: Containing added flavoring or coloring matter: Containing added coloring but not containing added flavoring matter: Other." The 2006 column one, general rate of duty is 35.74 cents per kilogram. In addition, products classified under subheading 1701.91.3000, HTSUSA, may be subject to additional duties based on their value as described in subheadings 9904.17.08 to 9904.17.16, HTSUSA. Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUS and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov/tata/hts.

EFFECT ON OTHER RULINGS:

HQ 952419 dated October 15, 1992, is **modified** as to the classification under the HTSUSA of the A LA Perruche brown sugar chunks. In accordance with 19 U.S.C. § 1625(c), this ruling will become effective sixty (60) days after publication in the *Customs Bulletin*.

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

19 CFR PART 177

PROPOSED MODIFICATION OF RULING LETTER AND REVOCATION OF TREATMENT RELATING TO TARIFF CLASSIFICATION OF STEEL TUBES PREPARED FOR USE IN STRUCTURES

AGENCY: U. S. Customs and Border Protection (CBP), Department of Homeland Security.

ACTION: Notice of proposed modification of ruling letter and revocation of treatment relating to tariff classification of steel tubes prepared for use in structures.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that CBP intends to modify a ruling relating to the classification of steel tubes prepared for use as fence posts under the Harmonized Tariff Schedule of the United States (HTSUS), and to revoke any treatment CBP has previously accorded to substantially identical transactions. These articles are galvanized steel tubes swaged or tapered on one or both ends to permit one tube to fit inside and connect to another tube. CBP invites comments on the correctness of the proposed action.

DATE: Comments must be received on or before April 28, 2006.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations & Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, N.W., Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: James A. Seal, Tariff Classification and Marking Branch (202) 572-8779.

SUPPLEMENTARY INFORMATION:

Background

On December 8, 1993, Title VI (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are **informed compliance** and **shared responsibility**. These concepts are based on the premise that in order to maximize voluntary compliance with customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's rights and responsibilities under the customs and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484, Tariff Act of 1930, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and declare value on imported merchandise, and to provide other necessary information to enable CBP to properly assess duties, collect accurate statistics and determine whether any other legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify a ruling relating to the tariff classification of steel tubes prepared for use as fence posts. Although in this notice CBP is specifically referring to one ruling, NY J81431, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one listed. No further rulings have been identified. Any party who has received an interpretative ruling or decision (i.e.,

ruling letter, internal advice memorandum or decision, or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment it previously accorded to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or his agents for importations of merchandise subsequent to the effective date of the final decision on this notice.

In NY J81431, dated March 20, 2003, galvanized steel tubes swaged or tapered on one or both ends, among other articles, were held to be classifiable as other articles of iron or steel, in subheading 7326.90.8587, HTSUSA. This ruling was based in part at least on the fact that fence posts are listed among the exemplars in the Harmonized Commodity Description and Coding System Explanatory Notes for heading 7326. NY J81431 is set forth as "Attachment A" to this document.

It is now CBP's position that these articles are classifiable in subheading 7308.90.9590, HTSUSA, as tubes and the like, prepared for use in structures, of iron or steel. Pursuant to 19 U.S.C. 1625(c)(1)), CBP intends to modify NY J81431 and any other ruling not specifically identified to reflect the proper classification of the merchandise pursuant to the analysis in HQ 968133, which is set forth as "Attachment B" to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment it previously accorded to substantially identical transactions. Before taking this action, we will give consideration to any written comments timely received.

DATED: March 13, 2006

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,

NY J81431

March 20, 2003

CLA-2-73:RR:NC:1:117 J81431

CATEGORY: Classification

TARIFF NO.: 7306.30.1000; 7306.30.5032; 7326.90.8587

MR. ANDREW VIEIRA
A.N.K. ENTERPRISES, INC.
13370 S.W. 131 Street, Unit 112
Miami, Florida 33186

RE: The tariff classification of steel pipes for fence posts from Venezuela, India and Malaysia.

DEAR MR. VIEIRA:

In your letter dated February 18, 2003, you requested a tariff classification ruling.

The products to be imported are welded galvanized steel tubes ranging from 1 1/3 inches to 2 3/8 inches in diameter, from 0.035 inch to 0.322 inch in wall thickness and from 5 feet to 24 feet in length. You state that these steel tubes will be as fence posts. Some of the tubes are swaged or bent inward to avoid the use of fence fittings. Other tubes have plain ends.

The applicable subheading for the plain end welded galvanized steel tubes having a wall thickness that measures less than 1.65 mm will be 7306.30.1000, Harmonized Tariff Schedule of the United States (HTS), which provides for other tubes, pipes and hollow profiles (for example, open seamed or welded, riveted or similarly closed), of iron or steel, other, welded, of circular cross section, of iron or nonalloy steel, having a wall thickness of less than 1.65 mm. The rate of duty will be 0.8 percent ad valorem.

The applicable subheading for the plain end welded galvanized steel tubes having a wall thickness that measures 1.65 mm or more will be 7306.30.5032, HTS, which provides for other tubes, pipes and hollow profiles (for example, open seamed or welded, riveted or similarly closed), of iron or steel, other, welded, of circular cross section, of iron or nonalloy steel, having a wall thickness of 1.65 mm or more, other, other, with an outside diameter not exceeding 114.3 mm, galvanized, other. The rate of duty will be 0.2 percent ad valorem.

On March 5, 2002, President Bush proclaimed additional tariffs and quotas on a number of steel mill products for a period of three years. Products classified under HTS subheadings 7306.30.1000 and 7306.30.5032, unless specifically excluded, are subject to additional duties. See subheadings 9903.73.74 through 9903.73.86, copy attached. Based upon the description of the merchandise provided in your request, the applicable Chapter 99 subheading is 9903.73.85 which currently carries an additional 12 percent ad valorem tariff. At the time of importation, you must report this Chapter 99 number in addition to the Chapter 73 numbers listed above. Plain end welded galvanized steel tubes which are products of India and Venezuela, however, would be exempted from these additional tariffs by U.S. Note 11 (d), Subchapter III, Chapter 99. A copy of this note is attached.

The Proclamation is subject to periodic amendment of the exclusions, and the additional tariffs are reduced in the second and third years of the program, so you should exercise reasonable care in monitoring the status of goods covered by the Proclamation.

The applicable subheading for the welded galvanized tubes that are swaged or bent inward to avoid the use of fence fittings will be 7326.90.8587, HTS, which provides for other articles of iron or steel, other, other, other, other, other. The rate of duty will be 2.9 percent ad valorem.

Articles classifiable under subheading 7326.90.8587, HTS, which are products of India and Venezuela may be entitled to duty free treatment under the Generalized System of Preferences (GSP) upon compliance with all applicable regulations. The GSP is subject to modification and periodic suspension, which may affect the status of your transaction at the time of entry for consumption or withdrawal from warehouse. To obtain current information on GSP, check the Customs Web site at www.customs.gov. At the Web site, click on "CEBB", click on "Files", click on "Search" and then enter a key word search for the term "T-GSP".

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Paula Ilardi at 646-733-3020.

ROBERT B. SWIERUPSKI,

Director,

National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.

BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 968133

CLA-2 RR:CTF:TCM 968133 JAS

CATEGORY: Classification

TARIFF NO.: 7308.90.9590

MR. ANDREW VIEIRA
A.N.K. ENTERPRISES, INC.
13370 S.W. 131 Street, Unit 112
Miami, Florida 33186

RE: Steel Tubes for Fence Posts; NY J81431 Modified

DEAR MR. VIEIRA:

In NY J81431, which the Director, National Commodity Specialist Division, U.S. Customs and Border Protection (CBP), New York, issued to you on March 20, 2003, certain welded galvanized steel tubes with swaged ends, for use as fence posts, were found to be classifiable as other articles of iron or steel, in subheading 7326.90.8587, Harmonized Tariff Schedule of the United States Annotated (HTSUSA). We have reconsidered the classification

of these tubes and now believe that it is incorrect. The classification expressed in NY J81431 for galvanized steel tubes with plain ends is not affected by this decision.

FACTS:

The products to be imported are welded galvanized steel tubes ranging from 1 1/3 inches to 2 3/8 inches in diameter, from 0.035 inch to 0.322 inch in wall thickness and from 5 feet to 24 feet in length. These steel tubes will be used as fence posts. The tubes at issue here are swaged on one or both ends to permit one tube to fit inside another tube.

The HTSUS provisions under consideration are as follows:

7308	Structures . . . and parts of structures . . . of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel:
------	--

7308.90	Other: Columns, pillars, posts, beams, girders and similar structural units:
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Other:

7308.90.95	Other
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* * * *

7326	Other articles of iron or steel:
------	----------------------------------

7326.90	Other:
---------	--------

Other:

Other:

7326.90.85	Other
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ISSUE:

Whether galvanized steel tubes swaged on one or both ends, constitute tubes and the like, prepared for use in structures of heading 7308.

LAW AND ANALYSIS:

Under General Rule of Interpretation (GRI) 1, Harmonized Tariff Schedule of the United States (HTSUS), goods are to be classified according to the terms of the headings and any relative section or chapter notes, and provided the headings or notes do not require otherwise, according to GRIs 2 through 6.

The Harmonized Commodity Description and Coding System Explanatory Notes (ENs) constitute the official interpretation of the Harmonized System at the international level. Though not dispositive, the ENs provide a commentary on the scope of each heading of the HTSUS. Customs and Border

Protection (or CBP, as appropriate) believes the ENs should always be consulted. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (Aug. 23, 1989).

Initially, NY J81431 provided no explanation for the subheading 7326.90.8587, HTSUSA, classification it expressed for the galvanized steel tubes with swaged ends. However, we note that fence posts are among the exemplars listed in the 7326 EN. Nevertheless, heading 7326 covers all articles of iron or steel that are not covered more specifically in the preceding headings of Chapter 73 or elsewhere in the HTSUS. It is appropriate, therefore, to examine the issue of whether steel tubes with one or both ends swaged are tubes and the like prepared for use in structures, provided for in heading 7308.

The 7308 EN includes within the heading as structures and parts of structures "assembled railings and fencing." In fact, CBP has classified steel fencing consisting of various sized steel mesh panels and posts in subheading 7308.90.9590, HTSUSA, as structures of iron or steel. See NY I87193, dated November 6, 2002. The heading 7308 ENs state "[t]he heading also covers parts such as flat-rolled products, 'wide flats' including so-called universal plates, strip, rods, angles, shapes, sections and tubes, which have been prepared (e.g., drilled, bent or notched) for use in structures." (Underlining added). In this context, the term *swage* connotes a "n. 1. A tool for bending or shaping cold metal." Webster's II New Riverside University Dictionary (1984), and *swaging* is "forming a taper or a reduction on metal products such as rod and tubing by forging, squeezing or hammering." Metals Handbook, (8th. ed., Vol. 1). Swaging one or both ends of galvanized steel tubes creates a taper which permits one tube to slide inside and connect to another tube. In our opinion, this "prepares" the tubes for use as fence posts and top rails to support steel fencing. Such tubes are provided for as parts in heading 7308.

This merchandise is to be distinguished from the steel posts used as fence posts which HQ 084528, dated November 8, 1989, and HQ 085908, dated November 9, 1989, found to be classifiable in subheading 7326.90.90, HTSUS. These posts were roll formed from galvanized steel sheet into a triangular configuration. There is no indication that these articles were prepared in any way subsequent to their formation.

HOLDING:

Under the authority of GRI 1, the galvanized steel tubes, swaged on one or both ends, as indicated, are provided for in heading 7308. They are classifiable in subheading 7308.90.95.90, HTSUSA.

EFFECT ON OTHER RULINGS:

NY J81431, dated, March 20, 2003, is modified as to this merchandise.

MYLES B. HARMON,

Director,

Commercial and Trade Facilitation Division.

19 CFR PART 177

PROPOSED MODIFICATION OF RULING LETTER AND
REVOCATION OF TREATMENT RELATING TO
CLASSIFICATION OF A LEATHER CARD CASE WITH
DETACHABLE MONEY CLIP

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of proposed modification of a ruling letter and revocation of treatment relating to tariff classification of a leather card case with a detachable money clip with a built-in watch.

SUMMARY: Pursuant to section 625(c), Tariff Act of 1930 (19 U.S.C. 1625(c)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), this notice advises interested parties that the Bureau of Customs and Border Protection ("CBP") intends to modify a ruling letter pertaining to the tariff classification, under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA), of a leather card case with a detachable money clip with a built-in watch and to revoke any treatment previously accorded by CBP to substantially identical transactions. Comments are invited on the correctness of the proposed action.

DATE: Comments must be received on or before April 28, 2006.

ADDRESS: Written comments are to be addressed to U.S. Customs and Border Protection, Office of Regulations and Rulings, Attention: Trade and Commercial Regulations Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Submitted comments may be inspected at U.S. Customs and Border Protection, 799 9th Street, NW, Washington, D.C., during regular business hours. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

FOR FURTHER INFORMATION CONTACT: Keith Rudich, Tariff Classification and Marking Branch, (202) 572-8782.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On December 8, 1993, Title VI, (Customs Modernization), of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057) (hereinafter "Title VI"), became effective. Title VI amended many sections of the Tariff Act of 1930, as amended, and related laws. Two new concepts which emerge from the law are "informed compliance" and "shared responsibility." These

concepts are premised on the idea that in order to maximize voluntary compliance with CBP laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the law imposes a greater obligation on CBP to provide the public with improved information concerning the trade community's responsibilities and rights under the CBP and related laws. In addition, both the trade and CBP share responsibility in carrying out import requirements. For example, under section 484 of the Tariff Act of 1930, as amended, (19 U.S.C. §1484) the importer of record is responsible for using reasonable care to enter, classify and value imported merchandise, and provide any other information necessary to enable CBP to properly assess duties, collect accurate statistics and determine whether any other applicable legal requirement is met.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI, this notice advises interested parties that CBP intends to modify a ruling letter pertaining to the tariff classification of a leather card case with a detachable money clip with a built-in watch. Although in this notice CBP is specifically referring to one ruling, NY K89720, this notice covers any rulings on this merchandise which may exist but have not been specifically identified. CBP has undertaken reasonable efforts to search existing data bases for rulings in addition to the one identified. No further rulings have been found. Any party who has received an interpretive ruling or decision (*i.e.*, ruling letter, internal advice memorandum or decision or protest review decision) on the merchandise subject to this notice, should advise CBP during this notice period.

Similarly, pursuant to section 625(c)(2), Tariff Act of 1930 (19 U.S.C. 1625(c)(2)), as amended by section 623 of Title VI, CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Any person involved in substantially identical transactions should advise CBP during this notice period. An importer's failure to advise CBP of substantially identical transactions or of a specific ruling not identified in this notice, may raise issues of reasonable care on the part of the importer or their agents for importations of merchandise subsequent to the effective date of the final notice of this proposed action.

In NY K89720, dated October 1, 2004, set forth as "Attachment A" to this document, CBP found that a leather card case with a detachable money clip with a built-in watch was not a composite good and, therefore, the leather card case must be classified separately from the money clip with built-in watch.

CBP has reviewed the matter and determined that the correct classification of the leather card case with a detachable money clip with a built-in watch is as a General Rule of Interpretation ("GRI") 3(b) set in heading 4202, specifically subheading 4202.31.6000, HTSUSA, which provides for "Trunks, suitcases, vanity cases, atta-

che cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Articles of a kind normally carried in the pocket or in the handbag: With outer surface of leather, of composition leather or of patent leather: Other."

Pursuant to 19 U.S.C. 1625(c)(1), CBP intends to modify NY K89720, and any other ruling not specifically identified, to reflect the proper classification of the merchandise pursuant to the analysis set forth in proposed Headquarters Ruling Letter (HQ) 967392, as set forth in "Attachment B" to this document. Additionally, pursuant to 19 U.S.C. 1625(c)(2), CBP intends to revoke any treatment previously accorded by CBP to substantially identical transactions. Before taking this action, consideration will be given to any written comments timely received.

Dated: March 10, 2006

Gail A. Hamill for MYLES B. HARMON,
Director,
Commercial and Trade Facilitation Division.

Attachments

[ATTACHMENT A]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,

NY K89720
October 1, 2004
CLA-2-42:RR:NC:TA:341 K89720
CATEGORY: Classification
TARIFF NO.: 4202.31.6000

MR. ROLANDO PORTAL
ABC DISTRIBUTING, LLC
6301 East 10th Avenue
Hialeah, FL 33013

RE: The tariff classification of a card case with watch from China.

DEAR MR. PORTAL:

In your letter dated September 16, 2004, you requested a tariff classification ruling.

A sample of style 284533 has been submitted. The item consists of a "Buxton" card case of 100% leather and a removable metal money clip with quartz watch. The card case measures approximately 3 3/4"(W) x 3"(H) designed to hold business/ID cards. You have indicated that you consider the card case and clip with quartz watch to be a composite article. However, for classification purposes the items are not considered to be a composite. Each item will be separately classified. Your sample is being returned as requested.

The applicable subheading for the card case of leather will be 4202.31.6000, Harmonized Tariff Schedule of the United States (HTS), which provides for articles of a kind normally carried in the pocket or in the handbag, with outer surface of leather, of composition leather or of patent leather, other. The rate of duty will be 8 percent ad valorem.

We are unable to issue a classification ruling for the watch at this time. Your request for a classification ruling should include: 1) What type of movement is incorporated in the watch? 2) How many jewels are in the movement? When this information is available, you may wish to resubmit your request for a classification ruling.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations (19 C.F.R. 177).

A copy of the ruling or the control number indicated above should be provided with the entry documents filed at the time this merchandise is imported. If you have any questions regarding the ruling, contact National Import Specialist Kevin Gorman at 646-733-3041.

ROBERT B. SWIERUPSKI,
Director,
National Commodity Specialist Division.

[ATTACHMENT B]

DEPARTMENT OF HOMELAND SECURITY.
BUREAU OF CUSTOMS AND BORDER PROTECTION,

HQ 967392

CLA-2 RR:CTF:TCM 967392 KBR

CATEGORY: Classification

TARIFF NO.: 4202.31.6000

MR. ROLANDO E. PORTAL
ABC DISTRIBUTING, LLC
P.O. Box 611210
No. Miami, FL 33261-1210

RE: Reconsideration of NY K89720; Leather Card Case and Steel Money Clip with Watch

DEAR MR. PORTAL:

This is in reference to your letter of October 20, 2004, requesting reconsideration of New York Ruling Letter (NY) K89720, issued to you by the Customs and Border Protection ("CBP") National Commodity Specialist Division, on October 1, 2004, concerning the classification of a "Buxton®" leather card case and steel money clip with a built-in quartz watch, style 284533,

under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). A sample was submitted for our review. We have reviewed NY K89720 and have determined that the classification determination is incorrect.

FACTS:

NY K89720 concerns a cowhide leather card case which has a removable metal money clip. The money clip has a built-in quartz watch. The card case measures approximately 3 3/4 inches by 3 inches. The card case has three pockets. Two large pockets can be used for holding business cards, credit cards or paper currency. One of the large pockets is faced with clear plastic so that a business card can be displayed. The clear plastic has a cut out designed to permit easy dispensing of business cards. The third pocket is smaller and is intended for the metal money clip/watch to slide in to attach to the leather card case. The money clip/watch is easily removed and may be used separately from the leather card case. The money clip/watch is designed with a hinged top containing the watch and is made wholly of the same metal finish. In your request for reconsideration you state that the quartz watch has a mechanical movement containing no jewels.

In NY K89720, it was determined that the leather card case with detachable money clip/watch was not a composite article and the two components must be individually classified. The leather card case was classifiable as "[a]rticles of a kind normally carried in the pocket or in the handbag: [w]ith outer surface of leather, of composition leather or patent leather: [o]ther" under subheading 4202.31.6000, HTSUSA. The money clip/watch was not classified because there was insufficient information provided concerning the type of movement incorporated in the watch and how many jewels were in the watch movement.

ISSUE:

What is the proper classification of the subject leather card case with detachable money clip with a built-in watch under the HTSUSA?

LAW AND ANALYSIS:

Merchandise is classifiable under the HTSUSA in accordance with the General Rules of Interpretation (GRIs). The systematic detail of the HTSUSA is such that virtually all goods are classified by application of GRI 1, that is, according to the terms of the headings of the tariff schedule and any relative Section or Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs may then be applied.

In interpreting the headings and subheadings, CBP looks to the Harmonized Commodity Description and Coding System Explanatory Notes (EN). Although not legally binding, they provide a commentary on the scope of each heading of the HTSUS. It is CBP's practice to follow, whenever possible, the terms of the ENs when interpreting the HTSUSA. See T.D. 89-80, 54 Fed. Reg. 35127, 35128 (August 23, 1989).

The HTSUSA provisions under consideration are as follows:

4202

Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and

similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper:

* * * *

Articles of a kind normally carried in the pocket or in the handbag:

4202.31 With outer surface of leather, of composition leather or of patent leather:

* * * *

4202.31.6000 Other

9102 Wrist watches, pocket watches and other watches, including stop watches, other than those of heading 9101:

* * * *

Other:

9102.91 Electrically operated:

* * * *

Other:

9102.91.4000 Having no jewels or only one jewel in the movement.

Initially we note that instant article is comprised of a leather card case and a metal money clip with a built-in watch. The money clip with a built-in watch is a composite good. Because the item is a composite good, we turn to GRI 3(b) which states that when goods are *prima facie* classifiable under two or more headings, classification shall be effected as follows:

(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

EN (IX) for GRI 3(b), explains what a composite good is, stating:

For the purposes of this Rule, composite goods made up of different components shall be taken to mean not only those in which the components are attached to each other to form a practically inseparable whole but also those with separable components, **provided** these components are adapted one to the other and are mutually complementary and that to-

gether they form a whole which would not normally be offered for sale in separate parts.

Here the money clip of base metal of heading 7326 and watch of heading 9102 are permanently attached, thereby qualifying as a composite good.

Under EN (VII) for GRI 3(b), goods are to be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

Under EN (VIII) for GRI 3(b), the factor which determines essential character will vary as between different kinds of goods. It may, for example, be determined by the nature of the material or component, its bulk, quantity, weight or value, or by the role of a constituent material in relation to the use of the goods.

In the instant case, the money clip component is simply a bent piece of metal. The watch component is the more complex, heavy, and valuable component. Therefore, the essential character of the money clip with built-in watch is determined by the watch component, and, as considered individually, is classifiable in heading 9102, specifically subheading 9102.91.4000, HTSUSA. See NY H83146 (July 18, 2001).

Next we will address the full article, the leather card case and detachable money clip/watch. The money clip/watch may be detached and used separately from the leather card case. The leather card case and money clip do not constitute a composite good. The components form a whole which would normally be offered for sale in separate parts.

However, the leather card case with detachable money clip/watch does qualify as a set put up for retail sale under GRI 3(b). EN (X) for GRI 3(b) states:

For purposes of this Rule, the term "goods put up in sets for retail sale" shall be taken to mean goods which:

- (a) consist of at least two different articles which are, *prima facie*, classifiable in different headings. Therefore, for example, six fondue forks cannot be regarded as a set within the meaning of this Rule;
- (b) consist of products or articles put up together to meet a particular need or carry out a specific activity; and
- (c) are put up in a manner suitable for sale directly to users without repacking (e.g. in boxes or cases or on boards).

In this instance, the leather card case is classifiable in heading 4202, HTSUSA, and the money clip/watch, as discussed above, is classifiable in heading 9102, HTSUSA, satisfying the first criteria. The leather card case and money clip/watch are manufactured so that the money clip may be attached to the leather card case and used together for the purpose of holding and protecting money, identification, credit cards, and business cards. The article is packaged for sale directly to the public. Therefore, the leather card case and money clip/watch qualifies as a set pursuant to GRI 3(b). See HQ 967257 (April 14, 2005)(involving a detachable brooch attached to a bracelet determined to be a GRI 3(b) set) and HQ 085577 (January 10, 1990)(determining that audio components are not a GRI 3(b) composite good but are a GRI 3 (b) set).

As discussed above for composite good analysis of the money clip/watch component, GRI 3(b) states that sets are to be classified as if they consisted of the material or component which gives them their essential character, in-

sofar as this criterion is applicable. We, therefore, look at the EN (VIII) to GRI 3(b) factors for the set. The bulk of the set is provided by the leather card case. The money clip/watch attaches to the leather card case. The role of the card case is to secure valuables for carrying in the pocket. The money clip/watch functions in conjunction with the back of the card case. Therefore, the essential character of the leather card case and money clip/watch set is determined by the leather card case. See PD D84031 (October 30, 1998) and NY F85304 (April 14, 2000)(both finding a card case with attached money clip is classified in heading 4202). See, e.g., NY G80633 (August 23, 2000) (a handbag, coin purse and key fob classified in heading 4202, HTSUSA, as a GRI 3(b) set), and HQ 965103 (September 12, 2002)(finding that a vanity bag, tri-fold wallet and key fob are classified in heading 4202 as a GRI 3(b) set intended to transport the user's personal articles). But c.f., NY J88597 (September 22, 2003)(finding two of six samples not to be a GRI 3(b) set: a belt bag with key fob and identification card holder; and a checkbook wallet with a mirror/photo holder and split metal ring), and HQ 964242 (February 8, 2001)(a trinket box found not to be a GRI 3(b) set with a lipstick case and a cosmetic bag).

Therefore, pursuant to GRI 3(b), the leather card case with money clip/watch is classifiable under subheading 4202, specifically subheading 4202.31.6000, HTSUSA, which provides for: "Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Articles of a kind normally carried in the pocket or in the handbag: With outer surface of leather, of composition leather or of patent leather: Other."

HOLDING:

Pursuant to GRI 3(b), the leather card case with money clip/watch is classifiable under heading 4202, specifically subheading 4202.31.6000, HTSUSA, which provides for: "Trunks, suitcases, vanity cases, attache cases, briefcases, school satchels, spectacle cases, binocular cases, camera cases, musical instrument cases, gun cases, holsters and similar containers; traveling bags, insulated food or beverage bags, toiletry bags, knapsacks and backpacks, handbags, shopping bags, wallets, purses, map cases, cigarette cases, tobacco pouches, tool bags, sports bags, bottle cases, jewelry boxes, powder cases, cutlery cases and similar containers, of leather or of composition leather, of sheeting of plastics, of textile materials, of vulcanized fiber or of paperboard, or wholly or mainly covered with such materials or with paper: Articles of a kind normally carried in the pocket or in the handbag: With outer surface of leather, of composition leather or of patent leather: Other." The 2006 column one, general rate of duty rate is 8% *ad valorem*.

Duty rates are provided for your convenience and are subject to change. The text of the most recent HTSUSA and the accompanying duty rates are provided on the World Wide Web at www.usitc.gov/tata/hts.

EFFECT ON OTHER RULINGS:

NY K89720, dated October 1, 2004, is **MODIFIED**.

MYLES B. HARMON,

Director,

Commercial and Trade Facilitation Division.

United States Court of International Trade

One Federal Plaza
New York, NY 10278

Chief Judge

Jane A. Restani

Judges

Gregory W. Carman
Donald C. Pogue
Evan J. Wallach
Judith M. Barzilay

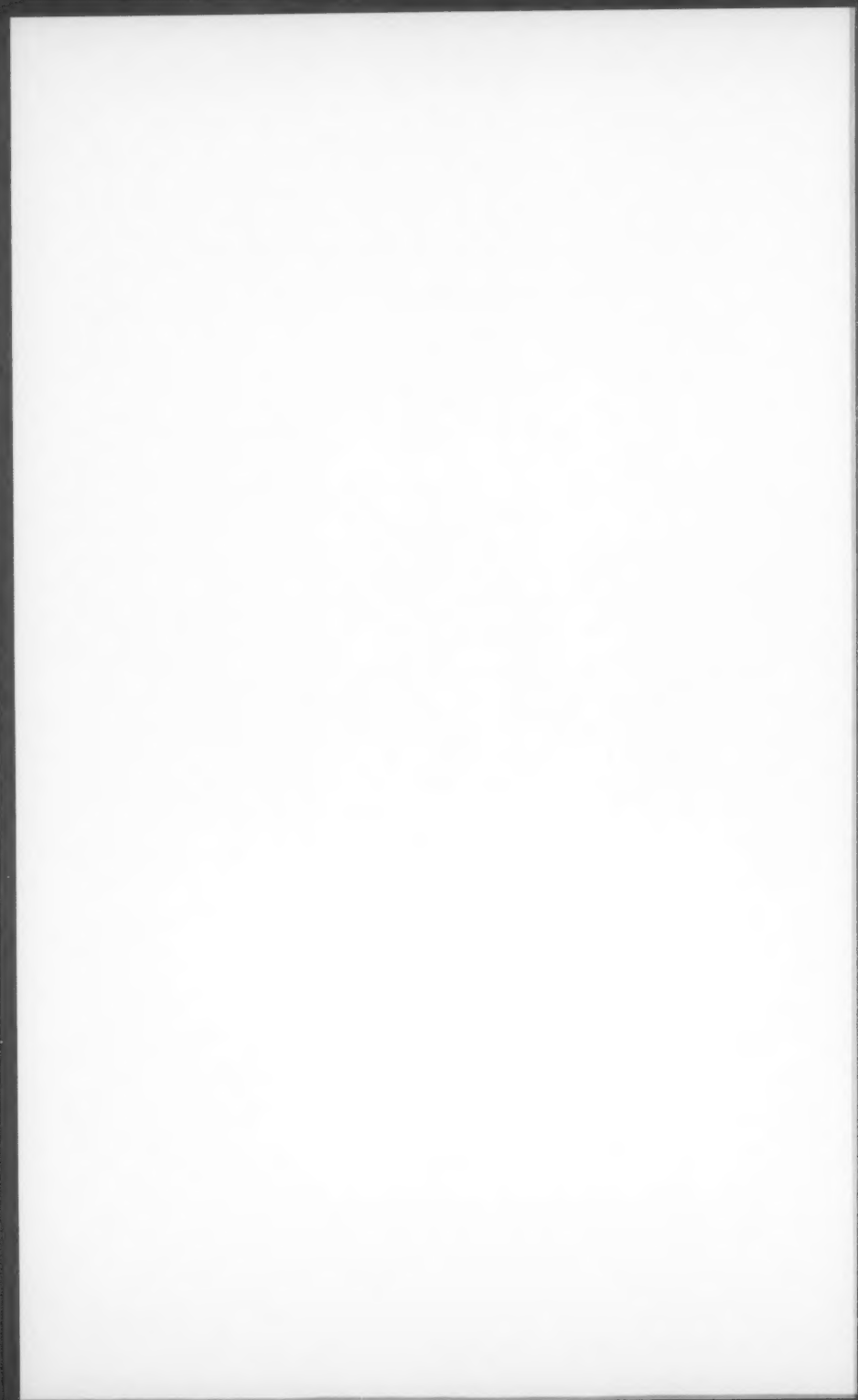
Delissa A. Ridgway
Richard K. Eaton
Timothy C. Stanceu

Senior Judges

Thomas J. Aquilino, Jr.
Nicholas Tsoucalas
R. Kenton Musgrave
Richard W. Goldberg

Clerk

Leo M. Gordon



Decisions of the United States Court of International Trade

SLIP OP. 06-35

VERTEX INTERNATIONAL, INC., Plaintiff, v. UNITED STATES, Defendant.

Before: Jane A. Restani, Chief Judge
Court No. 05-00272

JUDGMENT

The court hereby affirms the "Conclusion" of the Department of Commerce's Remand Results excluding Vertex's MO 480 Deluxe Garden Cart from the scope of the antidumping duty order on hand trucks from the People's Republic of China, for the reasons stated in the court's opinion. The remainder of the remand results is stricken, as inconsistent with the court's previous order. The court did not permit the Department to reinvestigate or reconsider this matter. Rather, the court ordered exclusion according to strict deadlines. See the court's orders of January 23, 2006, and February 21, 2006. The Department must adhere closely to the court's outstanding orders. Failure to do so unnecessarily absorbs the time of counsel and the court, does not promote respect for the rule of law, and may result in sanctions in unfortunate cases.

Slip Op. 06-36

COLAKOGLU METALURJI A.S., Plaintiff, v. UNITED STATES, Defendant, and GERDAU AMERISTEEL CORP., Defendant-Intervenor.

Before: Carman, Judge
Court No. 04-00621

JUDGMENT

In *Colakoglu Metalurji A.S. v. United States*, 29 CIT ___, 394 F. Supp. 2d 1379 (2005), the Court remanded this matter to the United

States Department of Commerce ("Commerce") pursuant to Commerce's voluntary remand request on the issue of date of sale.

On January 13, 2006, Commerce filed its *Final Results of Redetermination Pursuant to Court Remand* ("Remand Redetermination"). Upon remand, Commerce reconsidered its date of sale methodology that it used in *Certain Steel Concrete Reinforcing Bars from Turkey*, 69 Fed. Reg. 64,731 (Dep't Commerce Nov. 8, 2004) (final results of antidumping duty administrative review) ("*Final Results*"). In its *Remand Redetermination*, Commerce decided to recalculate the margin for Colakoglu "using the later of the purchase 'order' date or the date that the customer provided final product size specifications to Colakoglu as the date of sale." *Remand Redetermination* at 1-2. Upon review, Commerce found that "while there were differences between the quantities listed on the contract and the invoice, such differences were, in fact, always within the allowed delivery tolerances established for each sale. [Commerce] similarly [found] that no additional changes in price existed for any of Colakoglu's U.S. sales during the POR. Therefore, [Commerce] conclude[d] that the material terms of sale for Colakoglu's U.S. sales were established at the 'order' date, and as a result [Commerce has] recalculated the margin using Colakoglu's reported 'order date' as the date of sale." *Remand Redetermination* at 4. Consequently, Colakoglu's antidumping duty margin for the period from April 1, 2002, to March 31, 2003, was recalculated at 4.91 percent. *See id.*

Having received, reviewed and duly considered Commerce's *Remand Redetermination* and having received no comments from parties, this Court holds that Commerce complied with the remand order. Further, this Court holds that Commerce's *Remand Redetermination* is reasonable, supported by substantial evidence on the record and otherwise in accordance with law; and it is hereby

ORDERED that the *Remand Redetermination* filed by Commerce on January 13, 2006, is affirmed in its entirety.

Slip Op. 06-37

FRANK GRUNERT, Plaintiff, v. UNITED STATES SECRETARY OF AGRICULTURE, Defendant.

Before: MUSGRAVE, Judge
Court No. 05-00113

ORDER OF DISMISSAL

On January 26, 2006, the Court ordered the parties "to show cause, if there be any, by February 27, 2006, why this action should not be dismissed for lack of prosecution. . . ." *Grunert v. United States Sec'y of Agric.*, 30 CIT ___, ___, Slip Op. 06-16 at 1 (2006).

This deadline has now elapsed and no party has shown cause why this action should not be dismissed. Therefore, upon its own initiative pursuant to Rule 41(b)(3) of the Rules of this Court, and after consideration of all responses to the Court's Show Cause Memorandum Order, the complaint, and all other pertinent papers, it is hereby

ORDERED that plaintiff's complaint is dismissed for lack of prosecution.

Slip Op. 06-38

UNITED STATES OF AMERICA, Plaintiff, v. FIRST COAST MEAT AND SEAFOOD, SHAPIRO PACKING CO., and FPL FOOD LLC, Defendants.

Court No. 05-00281

Opinion & Order

[Defendants' motion to dismiss amended complaint granted in part.]

Dated: March 14, 2006

Peter D. Keisler, Assistant Attorney General; *David M. Cohen*, Director, *Patricia M. McCarthy*, Assistant Director, Commercial Litigation Branch, Civil Division, U.S. Department of Justice (*David S. Silverbrand*); and (*Kevin Green*) U.S. Customs and Border Protection, of counsel, for the plaintiff.

DeKieffer & Horgan (*J. Kevin Horgan*) and *Pelino & Lentz, P.C.* (*John W. Pelino*, *Howard A. Rosenthal* and *Gary D. Fry*) for defendants First Coast Meat and Seafood and Shapiro Packing Co.

AQUILINO, Senior Judge: According to Black's Law Dictionary, p. 453 (5th ed. 1979), the "most usual signification" of the word *duties* is the

synonym of imposts or customs; *i.e.* tax on imports; but it is sometimes used in a broader sense, as including all manner of taxes, charges, or governmental impositions.

Plaintiff's three-count amended complaint that has been filed herein pursuant to 19 U.S.C. §1592 and 28 U.S.C. §1582 attempts to implead the "broader sense", praying, as it does, for antidumping duties in the amount of \$9,507,725.50 (less \$100,000 already paid by defendants' surety), for a civil penalty of \$13,596,877.47, and also for "marking duties" totalling \$446,288.00.

Named defendant FPL Food LLC has filed an answer to this complaint, asserting four affirmative defenses and praying for dismissal as against it. The other defendants, First Coast Meat and Seafood and Shapiro Packing Co., seek the same relief via a motion to dis-

miss interposed pursuant to USCIT Rule 12(b)(5) (failure to state a claim upon which relief can be granted).

I

This motion recognizes, as it must, that the court has to "take all well-pled factual allegations as true and construe them in favor of the non-moving party".¹ On its face, and as dissected during oral argument, plaintiff's amended complaint is not a paragon of the art of pleading one's case. Among other things, it avers *in haec verba*:

1. This is an action to recover penalties and duties for violation of Section 592 of the Tariff Act of 1930, as amended[,] 19 U.S.C. § 1592.

* * *

8. Between July 15, 1997 and March 2, 1999, Shapiro Packing Company d/b/a[] First Coast Meat & Seafood was the importer of record and attempted to enter or introduce, or caused to be entered or introduced, shipments of freshwater crawfish tail meat into the commerce of the United States by means of entry documents filed with . . . Customs[] under entry numbers 110-68105194, . . . [etc.].

9. The merchandise described in paragraph 8 was entered and introduced into the commerce of the United States by means of materially false documents, markings, written or oral statements, acts and/or omissions by Shapiro Packing Company d/b/a[] First Coast Meat & Seafood. Specifically, the entry documents misdescribed the merchandise, provided false entry type codes, falsely marked the merchandise, and failed to identify the true country of origin of the merchandise.

10. Shapiro Packing Company d/b/a[] First Coast Meat & Seafood knew or should have known the correct description of the merchandise, the true country of origin of the merchandise, the correct markings required, the correct entry type code required, and/or that the merchandise was in fact subject to anti-dumping duties.

11. The false statements, acts, and/or omissions referred to in paragraphs 9 and 10 above were material because they prevented and/or had the potential to prevent Customs from apply-

¹ Motion of Defendants First Coast Meat & Seafood and Shapiro Packing Company to Dismiss Amended Complaint for Failure to State a Claim for Which Relief Can Be Granted [hereinafter referred to simply as "Defendants' Motion"], p. 1, citing *United States v. Action Prods. Int'l, Inc.*, 25 CIT 139 (2001), and *Kemet Elecs. Corp. v. Barshefsky*, 21 CIT 912, 976 F.Supp. 1012 (1997).

ing the correct dutiable rate to the shipments, thereby causing the United States to suffer a loss of revenue of \$9,954,013.50.

12. On or about August 14, 2003, the United States issued penalty notices and duty demand on Shapiro Packing Company d/b/a] First Coast Meat & Seafood regarding the entries described in paragraph 8 above.

* * *

14. Neither Shapiro Packing Company, First Coast Meat & Seafood, FPL Foods, LLC, nor any other entity, has paid the remaining duties owed the United States upon the entries described in paragraph 8 above.

Whereupon count 1 asserts that the

material false statements, acts and/or omissions described in paragraphs 9 and 10 above were the result of gross negligence and/or negligence on the part of defendants . . . in violation of 19 U.S.C. §1592(a)(1), which deprived the United States of lawful anti-dumping duties in the amount of \$9,507,725.50.

Amended Complaint, para. 16. Count 2 repeats this paragraph 16 to the effect that the defendants are also

liable pursuant to 19 U.S.C. § 1592(c)(1) to plaintiff for a civil penalty in the amount of \$13,596,877.47, which is equal to the domestic value of the merchandise.

Id., para. 19. Finally, misnumbered paragraph 19 of count 3 alleges:

As a result of Shapiro Packing Company, First Coast Meat & Seafood's, and FPL Food LLC's violations of 19 U.S.C. §1592 the merchandise described above in paragraph 8 was entered into the United States in violation of 19 U.S.C. §1304, resulting in the assessment of marking duties pursuant to 19 U.S.C. §1304(i) for those entries . . . in the amount of \$446,288.

A

The initial thrust of defendants' motion is to dismiss count 3 on the ground that marking duties cannot be collected under 19 U.S.C. §1592. This court concurs.

The foregoing complaint, on its face, paragraph 1, seeks to recover penalties and duties only for violation of section 1592. Both sides refer to the case *Pentax Corp. v. Robison*, 125 F.3d 1457 (Fed.Cir. 1997), *amended in part on reh'g*, 135 F.3d 760 (Fed.Cir. 1998), wherein the court of appeals sought to characterize the relationship between subsections 1304(f), which has since been relettered (i), and 1592(d). At best, it is clearly tenuous. While both are and have been elements of the Tariff Act of 1930, as amended, section 1304 is a

"special" provision in subtitle II, part I of the act, while 1592 is an "enforcement" provision in subtitle III, part V. The subsection of section 1304 now lettered (i) provides for "additional duties" for failure to mark as follows:

If at the time of importation any article . . . is not marked in accordance with the requirements of this section, . . . there shall be levied, collected, and paid upon such article a duty of 10 per centum ad valorem, which shall be deemed to have accrued at the time of importation, shall not be construed to be penal, and shall not be remitted wholly or in part nor shall payment thereof be avoidable for any cause. Such duty shall be levied, collected, and paid in addition to any other duty imposed by law and whether or not the article is exempt from the payment of ordinary customs duties.

This congressional impost thus stands entirely on its own, and is collectible irrespective of any other duty or reason for payment or non-payment thereof. Moreover, it shall not be construed to be penal. Ergo, plaintiff's reference to "a ten percent penalty that arose from mismarking the goods"² in *Pentax* is erroneous. Section 1592, on the other hand, does provide for penalties for fraud, gross negligence, and negligence in entering, introducing, or attempting to enter or introduce, any merchandise into the commerce of the United States. Subsection 1592(d) further states that,

if the United States has been deprived of lawful duties, taxes, or fees as a result of a violation of subsection (a) of this section, . . . Customs . . . shall require that such lawful duties, taxes, and fees be restored, whether or not a monetary penalty is assessed.

The courts have enforced this provision against sureties, for example, which themselves were not part of the requisite violations of subsection (a), e.g., *United States v. Blum*, 858 F.2d 1566 (Fed. Cir. 1988), *United States v. Yuchi's Morality Co.*, 26 CIT 1224 (2002), but such recovery of unpaid lawful duties has not transcended the strictures of section 1592 as enacted, nor is there any indication of congressional intent to the contrary.

In short, as a matter of law, it is impossible for the United States to be deprived of 19 U.S.C. §1304(i) "additional duties" by reason of violation of 19 U.S.C. §1592(a), and notwithstanding that non- or mis-marking of imported merchandise can prove to have been the result of fraud or negligence. See, e.g., *United States v. Golden Ship Trading Co.*, 25 CIT 40, 42-44 (2001). Cf. *Pentax Corp. v. Robison*, *supra*.

² Plaintiff's Response to Defendants' Motion to Dismiss, p. 3.

B

In passing upon a motion to dismiss for failure to state a claim upon which relief can be granted, the allegations of the complaint should be construed favorably to the plaintiff. *E.g.*, *Scheuer v. Rhodes*, 416 U.S. 232, 236 (1974). The second prong of the instant motion of defendants First Coast Meat and Seafood and Shapiro Packing Co. is that potential lost duties may not be collected under 19 U.S.C. §1592(d). The motion seeks to dismiss count 1 of plaintiff's amended complaint on the ground that the

plain language of Subsection (d) makes clear that it only authorizes the collection of duties of which the United States "has been deprived," *i.e.*, *actual duty losses*. It does not authorize the collection of duties of which the United States *may* be deprived, *i.e.*, *potential duty losses*.

Defendants' Motion, pp. 4-5 (emphasis in original). Further:

... As the Amended Complaint makes no reference to any "violation in respect of entries on which liquidation [has] become final," 19 C.F.R. §162.71, it does not allege, as to any of the subject entries, an *actual* loss of duties.

Id. at 8 (emphasis again in original).

Whatever defendants' reading of subsection 1592(d)³, the court's required favorable reading of plaintiff's amended complaint does not lead it to concur in the immediate relief for which defendants' motion prays. That is, the court concludes that such a reading of complaint paragraphs 11 and 16 in particular, *supra*, effectively undermines the motion to dismiss plaintiff's count 1.⁴

³ But see 19 C.F.R. §162.71(a) (2005):

Loss of duties under section 592 . . . means the duties of which the Government is or may be deprived by reason of the violation and includes both actual and potential loss of duties.

(1) *Actual loss of duties* . . . means the duties of which the Government has been deprived by reason of the violation in respect of entries on which liquidation had become final.

(2) *Potential loss of duties* . . . means the duties of which the Government tentatively was deprived by reason of the violation in respect of entries on which liquidation had not become final.

Italics in the original.

⁴ The court further notes in passing that, according to amended complaint paragraphs 13 and 17, defendants' surety has, in fact, paid \$100,000.00 in duties owed and also that such parties in interest have not necessarily been known for spontaneous satisfaction of their bonds in matters like this before the Court of International Trade.

C

Counsel for defendants First Coast Meat and Seafood and Shapiro Packing Co. have seen fit to present a third prong to their motion to dismiss, namely, the amended complaint fails to state any timely claim, including that of count 2. The bottom line of their seemingly-carefully-crafted papers, as noted during the oral argument thereon, is that when

the Court's consideration is properly limited to the facts alleged in the complaint, the complaint is untimely on its face and should be dismissed.

Reply of Defendants, p. 5 n. 1. On its face, there is something to this position, but the oral argument also indicated that, as a matter of fact, it may well be unfounded. Suffice it to report now that counsel for the defendants did not back away from their papers' position, which circumstance could therefore prove to be either well-founded or the basis of a violation of USCIT Rule 11(b). Whichever, defendants' motion to dismiss this action as time-barred must be denied at this time, pending joinder of any and all remaining issues and discovery and trial of the facts in connection therewith.

II

In view of the foregoing, the motion of defendants First Coast Meat and Seafood and Shapiro Packing Co. should be, and it hereby is, granted to the extent that count 3 of plaintiff's amended complaint be, and it hereby is, dismissed. In all other respects, the said motion is hereby denied.

Defendants First Coast Meat and Seafood and Shapiro Packing Co. may have until April 3, 2006 to file an answer to the remainder of plaintiff's amended complaint. Whereupon all of the parties to this action are to confer and present to the court on or before May 1, 2006 a proposed schedule for trial of counts 1 and 2 of that complaint.

So ordered.

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